International Labour Conference, 88th Session, 2000

TRIPARTITE CONSULTATION

INTERNATIONAL LABOUR STANDARDS

INTERNATIONAL LABOUR OFFICE · GENEVA

TRIPARTITE CONSULTATION

International Labour Conference

88th Session 2000

Report III (Part 1B)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

General Survey
concerning the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)

Report of the Committee of Experts
on the Application of Conventions and Recommendations
(articles 19, 22 and 35 of the Constitution)

TRIPARTITE CONSULTATION

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INTRODUCTION 1

I. Background to the Survey

1. In accordance with article 19, paragraph 5(e), of the Constitution of the International Labour Organization, the Governing Body of the International Labour Office decided at its 267th Session (November 1996) to invite the governments of those member States which have not yet ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), to submit a report on national law and practice in regard to the matters dealt with in this instrument. By the same decision, and in accordance with article 19, paragraph 6(d), of the Constitution, the governments of all member States were invited to submit a report on the law and practice in their countries in regard to the matters dealt with in the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). The reports supplied in pursuance of that decision, together with those submitted every two years under articles 22 and 35 of the Constitution by the governments of States which have ratified the Convention, have enabled the Committee of Experts on the Application of Conventions and Recommendations, in accordance with its usual practice, to carry out a General Survey on the effect given to the instruments under consideration.

2. This is the second General Survey on the 1976 instruments on tripartite consultation. When the previous Survey[1] was presented to the 68th Session of the International Labour Conference in June 1982, Convention No. 144 had been in force for four years and had received 27 ratifications. A total of 93 countries – a little over half of the member States of the Organization – have now ratified the Convention. While the considerations set forth in the 1982 Survey are still relevant in many respects, they can be supplemented by the lessons drawn from two decades of dialogue on the application of the Convention between the ILO supervisory bodies and the governments of ratifying States.

3. It might be useful to recall the context in which the Governing Body selected these instruments to request reports under article 19 of the Constitution. This choice followed the adoption by the International Labour Conference at its 83rd Session (1996) of the conclusions proposed by its Committee on Tripartite Consultation, according to which the ILO "should use all appropriate means" inter alia to "encourage the ratification and/or the effective application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152); and the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)".[2]

4. On the basis of the document prepared by the Office, the Governing Body did not however request reports on the effect given to Recommendation No. 113.[3] It should thus be made clear at the outset that

[1] ILO, *General Survey of the Reports relating to Convention No. 144 and Recommendation No. 152*, ILC, 68th Session, 1982, Report III (Part 4B), referred to hereinafter as "General Survey of 1982".

[2] Resolution concerning tripartite consultation at the national level on economic and social policy, in ILO: *Official Bulletin*, Vol. LXXIX, 1996, Series A, No. 2, pp. 67-69, and reproduced in Appendix C to this volume.

[3] Recommendation No. 113 is reproduced in Appendix B to this volume. The Committee of Experts carried out a General Survey on this instrument in 1976: ILO: *General Survey of the*

the subject of this Survey is not a discussion of the various practices relating to tripartite consultation on broad labour issues in general at the national level. Instead, the focus of this Survey relates specifically to the requirements for consultation with regard to international labour standards or other aspects of the ILO's activities covered by Recommendation No. 152.

II. TRIPARTISM AT THE INTERNATIONAL LEVEL

5. Since its inception, the essential role of the ILO has been the pursuit of cooperation between governments, employers and workers in furtherance of social justice by the regulation of labour matters at the international level, with a view to the establishment of "universal and lasting peace".[4] Set up in 1919 by the Peace Conference, the Commission on International Labour Legislation, comprising workers' representatives among its members – an unprecedented step at a diplomatic conference – was given the task of establishing an institutional mechanism for this cooperation. As a result of its efforts, Part XIII of the Treaty of Versailles instituted within the League of Nations a permanent labour organization with a tripartite structure, in the sense that each of its members would be represented at its general conference by two Government delegates and two other delegates, representing employers and workers respectively, with each delegate voting individually, while its executive body, the Governing Body of the International Labour Office, would be composed

Reports relating to the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), ILC, 61st Session, 1976, Report III (Part 4B). The report prepared to serve as a basis for the work of the Committee on Tripartite Consultation at the 1996 Session of the Conference contains an analysis of recent developments in this domain: ILO: *Tripartite consultation at the national level on economic and social policy*, ILC, 83rd Session, 1996, Report VI. Another useful reference contains a comparative study as well as a series of country and area studies on this subject: A. Trebilcock et al., *Towards social dialogue: Tripartite cooperation in national economic and social policy-making* (Geneva, ILO, 1994).

[4] In the words of the first sentence of the Constitution of the ILO ("lasting" was added in the aftermath of the Second World War).

of one-half Government representatives and one-half employers' and workers' representatives elected respectively by Employers' and Workers' delegates at the Conference. This would ensure the participation of employers' and workers' representatives at every stage of the Organization's standard-setting activities, from the determination of the Conference agenda to the supervision of the application of standards.

6. The originality of this principle and the boldness of the institutional structure did not escape the notice of observers at the time. According to one of them, the new international organization embodied the convergence between the development of collective labour agreements and that of international law, two forms of "legal pluralism" that had begun to encroach on the state monopoly of lawmaking.[5] Another author saw the direct participation of the "industrial communities" in managing social and labour affairs at the international level as one of the first manifestations of the movement away from the "era of the individualism of the State", which he welcomed.[6] The ILO's tripartism was thus the focus of somewhat utopian hopes,[7] characteristic of the aftermath of the First World War, for a profound transformation of international society. Yet, far from fulfilling the prophecy of the obsolescence of the State, the following decades ushered in the universalization of the model of the sovereign State through the process of decolonization and, more recently, a new increase in the number of States. Although ILO legislative instruments enjoy an authority derived from being adopted by tripartite bodies on which the social partners from nearly all the countries of the world are represented, they are, nevertheless, merely standards proposed to a society of States which

[5] G. Gurvitch: *Le temps présent et l'idée du droit social* (Paris, Vrin, 1931).

[6] G. Scelle: *L'Organisation internationale du Travail et le BIT* (Paris, Rivière, 1930). The author was a member of the Committee of Experts from 1937 to 1957.

[7] As already observed by Albert Thomas in his preface to Scelle, op. cit.

remain the masters of both their national legislation and their international commitments.[8]

7. While, when the League of Nations was replaced by the United Nations, existing methods were adapted and the institutions of the world organization were transformed, the ILO has kept its tripartite structure and the mandate assigned to it by its Constitution for 80 years. The Declaration concerning the aims and purposes of the International Labour Organization, adopted by the Conference in Philadelphia in 1944 and incorporated into the Constitution, enshrines a broader range of objectives and a wider mission of the Organization, while reaffirming the relevance of its method based on a "continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare".

III. Tripartism at the national level in relation to international labour standards

8. The sound functioning of tripartite cooperation in relation to international labour standards presupposes that it is supported by analogous dialogue at the national level. Even if it only consists of an obligation to provide information, and not to hold consultations, the obligation placed upon governments by article 23, paragraph 2, of the Constitution to communicate to the representative organizations of employers and workers copies of the reports provided under articles 19 and 22 favours the active participation of these organizations in supervising the application of standards.

[8] With the specific proviso, however, that all members, pursuant to their obligation of submission to the competent authorities under article 19, paragraphs 5(b) and 6(b), of the Constitution, are bound to examine in good faith the effect that might be given to newly adopted international labour standards.

9. Moreover, many international labour Conventions contain provisions establishing that the representative organizations of employers and workers are to be associated in their application. From its very first session, it appeared necessary to the Conference to provide for the principle of tripartite cooperation governing the adoption of standards to be extended at the national level to the process of their implementation. Three types of measures can be envisaged in this respect.

10. The first Convention[9] adopted by the Conference established that any exceptions to its application shall be made only after consultation with the organizations of employers and workers concerned. A large number of instruments on a wide variety of subjects provide for a similar obligation to consult, whether before the adoption of laws or regulations, or on the application of certain clauses of the Convention, or with respect to certain exceptions authorized by the Convention.

11. Another Convention adopted at the same session of the Conference[10] contains a provision with the specific objective of establishing institutions to ensure consultation of employers' and workers' representatives, in this case in the form of committees to be consulted on all matters concerning the carrying on of public employment agencies. Several Conventions, for example those on employment services or minimum wage fixing, also lay down this obligation to set up bodies or machinery for the involvement of employers' and workers' representatives.

12. A third type of provision stipulates that the public authorities shall seek the cooperation of employers' and workers' organizations in the application of the legislation intended to give effect to the Convention, or in the formulation and application of the national policy required in such areas as equality of opportunity and treatment or employment policy.

[9] The Hours of Work (Industry) Convention, 1919 (No. 1).

[10] The Unemployment Convention, 1919 (No. 2).

13. Another early concern of the ILO was to seek ways of involving employers' and workers' organizations, already at the national level, in the machinery for the regular supervision of the application of standards. On the recommendation of the Committee of Experts and the Conference Committee on the Application of Standards, the Governing Body decided in 1932 to introduce in the report forms on ratified Conventions a question requesting governments to state whether they had received from the organizations of employers or workers concerned any observations regarding the application of the Convention in practice and, if so, to communicate a summary of such observations, together with any comments that they considered useful.[11]

14. In addition to new obligations concerning the submission of reports,[12] the Instrument of Amendment to the Constitution adopted by the Conference in 1946 introduced in article 23, paragraph 2, the obligation for each Member to communicate to the representative organizations of employers and workers copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22 of the Constitution. Under this constitutional provision, representative organizations of employers and workers must therefore be provided with all the information and reports communicated to the Office by the government of their country on the measures taken to submit Conventions and Recommendations to the competent authorities, the effect given to unratified Conventions and to Recommendations and the application of ratified Conventions. On this basis they may submit their own observations, as they are encouraged to do by both the Committee of Experts and the Conference Committee. The Committee of Experts has

[11] Minutes of the 60th Session of the Governing Body (Oct. 1932), pp. 79 and 156.

[12] In particular, the obligation to inform the Director-General of the measures taken to submit the instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5(c) and 6(c)) and the obligation to report on the effect given to unratified Conventions and to Recommendations, as requested by the Governing Body (article 19, paragraphs 5(e) and 6(d)).

repeatedly emphasized the value of these observations, which are being presented in increasing numbers,[13] to enable a better assessment to be made of the application of standards in practice and the difficulties encountered.[14]

15. Through its resolution concerning the strengthening of tripartism in the overall activities of the International Labour Organization,[15] the Conference in 1971 gave a decisive impetus to the movement which led to the adoption of the 1976 standards. "Considering that the tripartite element in the International Labour Organization has proved to be the most solid foundation for its success, as exemplified by the development of the International Labour Code and the functioning of supervisory machinery in respect of standards which is without parallel in the family of nations," and "noting with approval that in many member States of the ILO advisory or other bodies have been established in increasing numbers with a similar tripartite structure which implies equality of representation between employers' and workers' members thereof", the resolution invited the Governing Body, inter alia, to request the Committee of Experts "to consider measures which the ILO could take to ensure effective implementation of article 23, paragraph 2, of the Constitution" and "to recommend to governments that they consult the most representative organizations of employers and workers before they finalize replies to ILO questionnaires relating to items on the agenda of sessions of the General Conference".

16. Pursuant to this resolution, the Committee of Experts undertook an in-depth review in 1972 of the situation with regard to the role of employers and workers and their organizations in the implementation of

[13] On average, the Committee has examined some 200 such observations at each of its sessions over the past ten years.

[14] The Committee examined the practice with regard to these observations in its General Report in 1986 (paras. 80 to 108).

[15] ILO: *Official Bulletin*, Vol. LIV, 1971, No. 3, pp. 260-262.

standards.[16] The idea of adopting a special Convention on the subject, suggested by the Worker members of the Conference Committee during the discussion of this review, was widely supported in the Governing Body, which decided at its 191st Session (November 1973) to include on the agenda of the 60th Session (1975) of the Conference an item entitled "Establishment of national tripartite machinery to improve the implementation of ILO standards". At the 61st Session (1976), the Conference adopted Convention No. 144 and Recommendation No. 152.

17. In a new resolution concerning the strengthening of tripartism in ILO supervisory procedures of international standards and technical cooperation programmes, adopted in 1977, the Conference noted that the effectiveness of tripartite action in the application of international labour standards had been given an impetus by the adoption of the 1976 instruments. Noting that "an institutionalized participation of the most representative employers' and workers' organizations is essential to provide the objectivity and effectiveness needed" for the supervisory procedures, it invited the Governing Body, in particular, "to strengthen the participation of employers' and workers' organizations in the supervision of the application of Conventions and Recommendations" and to urge the governments of member States to endeavour to accelerate the ratification and application of Convention No. 144.[17]

[16] CEACR, General Report, ILC, 1972, Report III (Part 4A), paras. 28-98.

[17] ILO: *Official Bulletin*, Vol. LX, 1977, Series A, No. 3, pp. 168-171.

IV. Content of the instruments[18]

Convention No. 144

18. The Convention goes much further than the mere obligation of the communication of information laid down in article 23, paragraph 2, of the Constitution, since it commits ratifying States to hold consultations on each of the measures to be taken at the national level in regard to international labour standards. Ratifying States therefore undertake to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers on: (a) government replies to questionnaires concerning items on the agenda of the Conference and government comments on proposed texts to be discussed by the Conference; (b) the proposals to be made to the competent authority in connection with the submission of instruments; (c) the re-examination of unratified Conventions and of Recommendations; (d) reports on the application of ratified Conventions; and (e) proposals for the denunciation of Conventions.

19. The nature and form of the procedures for consultation have to be determined in accordance with national practice, after consultation with the representative organizations of employers and workers. For the purposes of these procedures, such organizations have to choose their representatives freely and be represented on a equal footing on any competent body.

20. Consultations have to be undertaken at appropriate intervals fixed by agreement, but at least once a year. The competent authority has to assume responsibility for the administrative support of the consultation procedures and make appropriate arrangements with the representative organizations for the financing of any necessary training of participants in

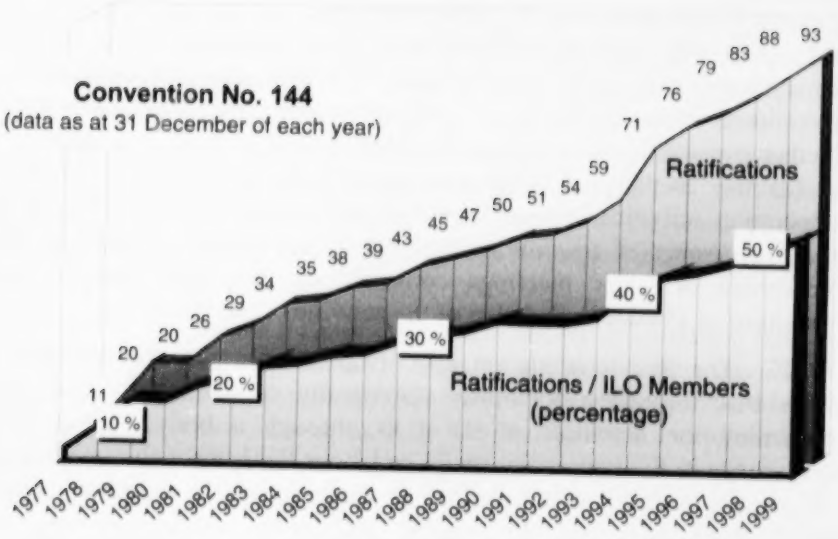
[18] The full texts of Convention No. 144 and Recommendation No. 152 are reproduced in Appendix A.

these procedures. Lastly, where this is considered appropriate, the competent authority has to issue an annual report on the working of these procedures.

Recommendation No. 152

21. The Recommendation incorporates all of the provisions of the Convention and also indicates that consultations should be held on: (a) the preparation and implementation of legislative or other measures to give effect to Conventions and Recommendations; and (b) the reports to be made under article 19 of the Constitution on the effect given to unratified Conventions and to Recommendations. Moreover, it should be determined, after consultation with the representative organizations, whether consultation procedures should be extended to other matters such as: (a) the preparation, implementation and evaluation of technical cooperation activities in which the ILO participates; (b) the action to be taken in respect of resolutions and other conclusions adopted by the Conference or other meetings convened by the ILO; and (c) the promotion of a better knowledge of the activities of the ILO.

22. The Recommendation also suggests examples of consultation procedures: through a committee specifically constituted for questions concerning the activities of the ILO; through a body with general competence in the economic, social or labour field; through a number of bodies with special responsibility; or through written communications where those involved are agreed that such communications are appropriate and sufficient.


Convention No. 144
(data as at 31 December of each year)
Ratifications
Ratifications / ILO Members
(percentage)
11
20
20
26
29
34
35
38
39
43
45
47
50
51
54
59
71
76
79
83
88
93
10 %
20 %
30 %
40 %
50 %
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999

V. PROGRESS OF RATIFICATION

23. Convention No. 144, which entered into force on 16 May 1978, had received 93 ratifications by 10 December 1999.[19] Since the previous General Survey, there has been steady and continuous rise in the number of ratifications.[20] The increase in the number of States party to the Convention should be seen not only in absolute terms, but also in relative terms, taking into account the rise in the number of member States in the last decade. One-quarter of member States were bound by the Convention in 1985, one-third in 1991 and over half since 1998 (see graph). While in 1982 the Committee noted a significant disparity in the geographical distribution in favour of Western European States,[21] countries in all regions of the world have ratified the Convention since then, including in recent years countries in Africa and most of the Central and Eastern European transition countries.

24. In 1979 and 1987, the Convention and Recommendation were classified by the Governing Body in the category of instruments of which the ratification and application should be promoted on a priority basis.[22] As part of its review of the regular supervisory procedures, the Governing Body decided in November 1993 that the Convention was one of the priority Conventions for which detailed reports would continue to be requested every two years.[23] At its first meeting in November 1995, the Working Party on Policy regarding the Revision of Standards set up by the Governing Body Committee on Legal Issues and International Labour

[19] The list of ratifications is given in Appendix D.

[20] In 1999, five new ratifications were registered: from Albania, Colombia, Congo, Dominican Republic and Republic of Korea.

[21] General Survey of 1982, para. 35.

[22] Final report of the Working Party on International Labour Standards, in ILO: *Official Bulletin*, Vol. LXII, 1979, Series A, special issue; Report of the Working Party on International Labour Standards, in *Official Bulletin*, Vol. LXX, 1987, Series A, special issue.

[23] Document GB.258/LILS/6/1.

Standards considered that the Convention should not be revised, and the Governing Body decided to exclude it from any revision.[24]

VI. INFORMATION AVAILABLE

25. The information available to the Committee consisted of the 136 reports communicated by governments under article 19 of the Constitution.[25] It also drew broadly on the information contained in reports communicated under articles 22 and 35 of the Constitution and took due account of the observations sent by employers' and workers' organizations.[26] The information available therefore varies widely from one country to another. In particular, the Committee notes that several reports refer in general terms to the existence of bodies for consulting the social partners without specifying to what extent they deal with the issues covered by the instruments. This appears to indicate a persistent lack of knowledge of their provisions, which would justify renewed efforts to explain and illustrate them.

26. Given the importance of the instruments for the promotion of tripartite dialogue on matters of concern to the Organization, the Committee regrets that too many governments of countries which have not ratified the Convention failed to provide a report, thereby denying it

[24] Document GB.264/9/2.

[25] A list of the countries which provided reports is contained in Appendix E.

[26] *Austria*: Federal Chamber of Labour (BAK); *Bangladesh*: Bangladesh Employers Federation (BEF); *Belarus*: Federation of Trade Unions of Belarus; *Brazil*: National Confederation of Commerce (CNC), National Confederation of Agriculture (CNA), National Confederation of Transport (CNT); *Canada*: Canadian Labour Congress (CLC), Confederation of National Trade Unions (CNTU), Canadian Employers' Council (CEC); *Mauritius*: Mauritius Employers' Federation, Trade Union of Institutional Corps (FSCC); *Sri Lanka*: Lanka Jathika Estate Workers Union (LJEWU); *Turkey*: Confederation of Turkish Labour Real Trade Unions (HAK-İŞ), Confederation of Turkish Employers' Associations (TİSK), Confederation of Progressive Trade Unions of Turkey (DİSK).

any information on national practice in this regard. It also notes with regret that several governments bound by the Convention have not sent the report requested on the effect given to the Recommendation.

VII. Outline of the Survey

27. In Chapter 2, the Committee enunciates the definitions of the basic concepts contained in the Convention and Recommendation and examines methods of applying the instruments. Chapter 3 describes the procedures that have been put in place to carry out the required consultations, and compares their advantages and the developments which have occurred in this domain. Chapter 4 reviews the various subjects of consultation, while Chapter 5 looks at the forms such consultation take in practice. In Chapter 6, the Committee examines obstacles to and prospects for the ratification of the Convention, before going on to formulate some concluding remarks.

DEFINITIONS AND METHODS OF IMPLEMENTATION

2

I. DEFINITIONS

28. The fundamental obligation under the Convention is set out in Article 2, paragraph 1. By the terms of that provision, each Member "undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, below, between representatives of the government, of employers and of workers". Article 3, paragraph 1 states that "the representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist". These "representative organisations" are defined in Article 1 as "the most representative organisations of employers and workers enjoying the right of freedom of association". In addition, under the terms of Article 3, paragraph 2, of the Convention, employers and workers must "be represented on an equal footing on any bodies through which consultations are undertaken". The Committee considers it important to discuss the meaning of some basic concepts contained in the above definitions, particularly in the light of the preparatory work of the instruments.

1. "Effective consultations"

29. As the Committee emphasized in its previous Survey,[1] the term "consultation" should be distinguished both from mere "information" and from "codetermination". Consultation must also be distinguished from "negotiation", which implies initiatives taken by parties with differing or conflicting interests with a view to reaching an agreement. The consultations required under the terms of the Convention are intended, rather than leading to an agreement, to assist the competent authority in taking a decision. For the consultations to be meaningful, they should not be merely a token gesture, but should be given serious consideration by the competent authority. Although the public authorities must undertake consultations in good faith, they are not bound by any of the opinions expressed and remain entirely responsible for the final decision. It was observed during the first phase of the preparatory work on the instruments that it was a "generally accepted principle" that "the outcome of the consultations should not be regarded as binding, and that the ultimate decisions must rest with the government or legislature, as the case may be".[2] Furthermore, a proposed amendment that the competent authority should be required to justify any refusal to accept opinions expressed during consultations was rejected.[3]

30. One other important consequence of the fact that consultation does not have the character of negotiations is the fact that the representatives of employers and workers who participate in the consultation must in no way be bound by the final decision or position adopted by the government. It would indeed be contrary to the principle of autonomy of employers and workers with regard to governments, which is applied in the work of the ILO's bodies, if they were bound by

[1] General Survey of 1982, para. 42.

[2] ILO: *Establishment of national tripartite machinery to improve the implementation of ILO standards*, ILC, 60th Session, 1975, Report VII(2), p. 29.

[3] ILO: *Record of Proceedings*, ILC, 61st Session, 1976, p. 136.

the government's position simply because they had been consulted. Nevertheless, the consultation procedure may set the objective of reaching a consensus between the various parties while respecting their autonomy.[4]

31. In order to be "effective", consultations must take place before final decisions are taken, irrespective of the nature or form of the procedures adopted. It will be noted in the present Survey that, depending on national practice, consultation can mean either submitting the government's proposed decision to employers' and workers' representatives, or asking those representatives to help formulate the proposal; that it can be based either on an exchange of communications or on discussions within tripartite bodies. The important factor here is that the persons consulted should be able to put forward their opinions before the government takes its final decision. The effectiveness of consultations thus presupposes in practice that employers' and workers' representatives have all the necessary information far enough in advance to formulate their own opinions. It should be emphasized that the mere communication of information and reports transmitted to the Office under article 23, paragraph 2, of the Constitution does not in itself meet the obligation to ensure effective consultations since, by that stage, the government's position will already be final.

2. "Representative organisations"

32. According to Article 3, paragraph 1, of the Convention, the representatives of employers and workers who participate in the consultation procedures must be freely chosen by their respective "representative organisations", that is, in accordance with the definition

[4] In the *United States*, one provision of Executive Order No. 12216 of 18 June 1980, which established the President's Committee on the ILO, expresses the need to achieve a balance between respect for the autonomy of the social partners and to reach a consensus as follows: "with due recognition that in the ILO tripartite system, government, employer and employee representatives retain the right to take positions independent of one another, the Committee should exert its best efforts to develop a coordinated position as to US policy on ILO issues".

given in Article 1, by the "most representative organisations of employers and workers enjoying the right of freedom of association".

33. The conclusions adopted following the first discussion of the proposed instruments envisaged that: "The representatives of employers and of workers should be freely chosen by their most representative organizations in the meaning of article 3, paragraph 5, of the Constitution of the International Labour Organization".[5] The explicit reference to this provision of the Constitution was not finally retained, since it was considered superfluous and had not been included in existing instruments.[6] Nevertheless, it was made clear that the term "representative organizations" has to be understood in the light of article 3, paragraph 5, of the Constitution.

34. In its Advisory Opinion No. 1, the Permanent Court of International Justice established that, in this provision of the Constitution, the use of the plural of the term "organisation" referred to both organizations of employers and organizations of workers.[7] Based on this opinion, a Memorandum by the International Labour Office in reply to a request for an interpretation from the Government of Sweden states that the term "the most representative organizations of employers and workers" in Article 1 of the Convention "does not mean only the largest organisation of employers and the largest organisation of workers. If in a particular country there are two or more organisations of employers or workers which represent a significant body of opinion, even though one

[5] ILO: Establishment of Tripartite Machinery to Promote the Implementation of International Labour Standards, ILC, 61st Session, 1976, Report IV(1), pp. 19 and 21. According to article 3, paragraph 5 of the ILO Constitution, "The Members undertake to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries".

[6] ILC, 61st Session, 1976, Report IV(1), pp. 27-28; Report IV(2), pp. 10-14.

[7] Permanent Court of International Justice: Decision of the Court concerning the Interpretation of Article 389 of the Treaty of Versailles, ILO, *Official Bulletin*, Vol. VI, 1922, No. 7, pp. 291-298.

of them may be larger than the others, they may all be considered to be 'most representative organisations' for the purpose of the Convention. The government should endeavour to secure an agreement of all the organisations concerned in establishing the consultative procedures provided for by the Convention, but if this is not possible it is in the last resort for the government to decide, in good faith in the light of the national circumstances, which organisations are to be considered as the most representative".[8]

35. The designation of organizations to take part in the consultations required under the Convention is likely to raise the issue of representation of public employers and that of participation by representatives other than those of the most representative organizations of employers and workers.

36. With regard to the representation of public employers, it was emphasized on a number of occasions during the preparatory work that, in keeping with the definition used in the Constitution and many ILO instruments, the term "employer" must mean anyone responsible for the employment of others, and not just "private employers".[9] Following comments from the Swedish Employers' Confederation (SAF) contesting the presence among the Employer members of the Swedish ILO Committee of representatives of local public administration organizations, the Committee of Experts considered that it was primarily in their capacity as employers of a substantial section of the labour force that the local administrative authorities might be concerned with the consultations provided for under the Convention. The Committee also noted that it was through the organizations concerned that the local administrative authorities negotiate with their employees or the employees' organizations, which is a typical function of an employers' organization,

[8] ILO, *Official Bulletin*, Vol. LXI, 1978, Series A, No. 3, pp. 193-198, para. 16.

[9] ILC, 61st Session, 1976, Report IV(1), para. 21; *Record of Proceedings*, ILC, 61st Session, 1976, No. 21, para. 16.

and the Committee concluded that the composition of the Swedish ILO Committee was not incompatible with the terms of Article 3, paragraph 2, of the Convention, according to which employers and workers must be represented on an equal footing on any bodies through which consultations are undertaken.[10]

37. Although the Convention requires that the most representative organizations of employers and workers participate in consultations, it does not in any way prevent the involvement of representatives of other organizations. Above all, it may be useful to receive the opinions of representatives of categories of workers or employers who may be inadequately represented by the principal representative organizations, such as self-employed workers, farmers or members of cooperatives. Certain international labour Conventions require the widest possible consultation of the active population,[11] while others specifically require consultation of the categories of persons affected.[12]

38. Furthermore, the Convention does not exclude participation in consultations by non-governmental organizations whose mandate is not to represent employers or workers. The possibility of holding consultations in bodies which are not strictly tripartite in composition and in which, apart from employers' and workers' representatives, other persons might

[10] *Report of the Committee of Experts*, 1980, pp. 195-196.

[11] For example, under the terms of Article 3 of the Employment Policy Convention, 1964 (No. 122), it is "representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers" who must be consulted on employment policies. The report form approved by the Governing Body gives the example of representatives of persons working in the rural sector and informal sector as "persons affected", in addition to representatives of employers' and workers' organizations.

[12] For example, the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), states that "representative organizations of and for disabled persons shall also be consulted", in addition to "representative organizations of employers and workers" on policies for the rehabilitation and employment of disabled persons. See Committee of Experts, General Survey on vocational rehabilitation and employment of disabled persons, 1998, paras. 90-92.

participate was also mentioned during the course of the preparatory work. These could include independent experts, representatives of women's organizations, indigenous peoples or consumers' associations. It was partly to allow the possibility of consultations through bodies other than those of strictly tripartite composition that the term "tripartite" does not appear in the operative part of the instruments.[13] However, it should be emphasized that consultation of other parties who may be concerned should not undermine participation by the main recognized social partners, let alone seek to replace it.

3. "Right of freedom of association"

39. The definition clause in Article 1 of the Convention states that representative organizations for the purposes of the Convention are those enjoying "the right of freedom of association". An amendment to that effect was introduced during the second discussion of the proposed instruments on the grounds that it was "important that employers' and workers' organizations should enjoy freedom of association, without which there could be no effective system of tripartite consultation either at the national or at the international level, since employers and workers had to be able to state their views independently". This amendment was adopted unanimously in preference to another proposed amendment which would have specified that representative organizations are those "whose members enjoy the rights prescribed in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)".[14] An explicit reference to Convention No. 87 in the operative part of the instruments had already been rejected during the first

[13] See: ILC, 60th Session, 1975, Report VII(2), pp. 14-15 and 20-21; *Record of Proceedings*, ILC, 61st Session, 1976, No. 21, para. 10. Participation by non-governmental organizations other than employers' and workers' organizations on bodies responsible for ILO affairs is rare. One example of this is in *Norway*, where the Norwegian Association for the United Nations has observer status on the Norwegian ILO Committee.

[14] ILO: *Record of Proceedings*, ILC, 61st Session, 1976, No. 21, para. 13.

discussion, particularly in view of the difficulties which that might raise for countries that had not ratified the Convention.[15] On the other hand, during the same discussion, it was agreed that the Preambles of the instruments should refer to Convention No. 87 and to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).[16]

40. In this context, the reference to the "right of freedom of association" is intended to guarantee that consultations take place under conditions in which representative organizations have an opportunity to express their point of view in total freedom and independence, which can only be guaranteed through full respect for the principles embodied in Conventions Nos. 87 and 98, which include the right of all workers and employers to establish and join organizations of their own choosing, the right of such organizations to manage their own internal affairs without interference by the public authorities, and the right of employers' and workers' organizations to protection from acts of interference by each other.

41. It should be noted in this regard that, in adopting the report form for Convention No. 144, the Governing Body took the view that for the purposes of supervising the application of the Convention, it was necessary to ask only the governments of countries that had not ratified Convention No. 87 to indicate the manner in which the right of freedom of association is guaranteed for the organizations referred to in Article 1.

4. Free choice of employers' and workers' representatives

42. According to Article 3, paragraph 1, of the Convention, representatives of employers and workers for the purposes of consultation procedures must be "freely chosen" by their representative organizations.

[15] ILC, 61st Session, 1976, Report IV(1), para. 28.

[16] ibid., para. 18.

Only by allowing the organizations themselves to choose their representatives freely is it possible to guarantee that the participants in the consultation procedures are truly representative.

43. The instruments contain no provisions on the manner in which these representatives should be appointed in practice. During the preparatory work, while the competent Conference Committee was examining in a first discussion Proposed Conclusions according to which employers' and workers' representatives would be appointed at the proposal of their representative organizations, the Employer and Worker members opposed an amendment designed to give governments greater freedom in appointing employers' and workers' representatives by requiring that they be appointed "after consultation" with those representative organizations.[17] Although the proposed instruments presented in the second discussion did not consider the question of methods of appointment, it was understood that, where those representatives are appointed by the government, mere consultation of the organizations concerned on the appointment of the representatives would not in itself ensure their free choice and that, in the event that they were appointed by the government upon the proposal of the organizations, the government should be bound by that proposal.

44. In practice, the principle of free choice is respected if the organizations themselves appoint their representatives directly. But this principle is also respected in cases where, as happens more frequently, the representatives are formally appointed by the government after being nominated by organizations, provided that in such cases the government is bound to appoint the persons proposed.

[17] ibid., para. 32.

5. Equal representation

45. According to Article 3, paragraph 2, of the Convention, "employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken."

46. During the preparatory work, it was agreed that this requirement of representation "on an equal footing" should not be interpreted as imposing strict numerical equality, but rather, as being intended to ensure substantially equal representation of the respective interests of employers and of workers so that their views are given equal weight. This is because numerical equality may be difficult to achieve, particularly where there are many representative organizations.[18] Nor is such numerical equality essential in the case of procedures which, being purely consultative, do not give rise to a vote.[19]

47. It should also be noted that the Convention does not require any proportionality of representation between employers and workers, on the one hand, and the government, on the other. The government is deemed to have a unique position compared to those of the social partners, irrespective of the actual number of its own representatives. In this regard, consultations within the meaning of the Convention can take place within bipartite bodies which have been called upon to examine the government's position.

II. Methods of implementation

48. The instruments do not set out precise requirements as to the methods of their application. For example, the Convention does not require a government to enact legislation with a view to implementing the

[18] ILC, 60th Session, 1975, Report VII(2), pp. 22-24.

[19] ILC, 61st Session, 1976, Report IV(1), para. 34.

respective procedures.[20] When the Governing Body approved the report form for the Convention, it confirmed that it could be implemented through customary law or practice as well as through the enactment of laws and regulations.[21]

49. Among the procedures for consultation on international labour standards identified by the Office in its report on law and practice,[22] a number of those which inspired the preparatory work had developed in the absence of any specific text, and indeed in some cases were based on long-established practice.[23] In a number of States party to the Convention, the consultations required take place without any specific provision in domestic law.[24]

50. In many countries, however, consultation procedures are governed by decree, regulations or ministerial orders and, more rarely, by statutes, such as the Labour Code.[25] They can also be established under the terms of a national agreement. Where there exists a labour advisory council, the adoption or modification of its internal rules may be enough

[20] Unless there are constitutional impediments or legislative provisions contrary to the Convention.

[21] Governing Body, 204th Session (November 1977), document GB.204/16/23. Part I of the report form asks whether effect is given to the Articles of the Convention: *"(a) by customary law or practice; or (b) by legislation"*.

[22] ILC, 60th Session, 1975, Report VII(1) pp. 9-16.

[23] For example, since 1927 in *Sweden*, 1947 in *Norway*, 1954 in *Denmark* and in *India*.

[24] For example, in *Austria*, *Germany*, *Iceland*, *Ireland*, *New Zealand*, *Portugal*, *Spain*, *United Kingdom* and *Venezuela*. In *Sri Lanka*, the plantation workers' union "Lanka Jathika" regrets that the consultative body has no legal status and is no more than an administrative body set up by the current Minister of Labour, which provides no guarantee of continuity.

[25] In *Indonesia*, the Indonesia Workers' Union considers that the fact that provisions adopted in implementation of the Presidential Decree ratifying the Convention took the form of a Manpower Ministerial Decree means that there is no guarantee that the Convention will be applied.

to organize consultations on the matters dealt with by the Convention by setting up, where appropriate, a competent committee or working party.

51. The Committee considers that it has justifiable grounds for concluding, from its 20 years of experience of supervising the application of the Convention, that the mechanisms of its application or the place in the national legislative hierarchy of instruments which give effect to it are less crucial in establishing effective consultation procedures than the overall quality of social dialogue in the country concerned. In certain countries, the adoption of texts is not enough to ensure the effective application of the Convention, while in others established practice alone ensures that full effect is given to its provisions. Although they have considerable latitude in deciding on the methods of application, the States bound by the Convention are required to show, in the information which they have to provide every two years in their reports under article 22 of the Constitution, that the necessary consultations are actually conducted in practice.

CONSULTATION PROCEDURES 3

52. Following the 1971 resolution concerning the strengthening of tripartism in the overall activities of the ILO, which noted with approval the establishment in member States of bodies with a tripartite structure similar to that of the ILO,[1] the development of instruments was first placed on the Conference agenda under the title "Establishment of national tripartite machinery to improve the implementation of ILO standards". Tripartite consultations on standards were seen mainly from an institutional perspective, taking as an example the experience of countries which conducted such consultations within appropriate bodies.[2] However, the preparatory work brought about a significant change in this respect. Following the first discussion, the reference to the "establishment" of machinery or procedures was removed, to prevent the instruments being interpreted as requiring the establishment of new machinery when consultations could be conducted within the framework of existing bodies, whether or not they were strictly tripartite.[3] In addition, a provision allowing consultations through written communications was

[1] See para. 15 above.

[2] ILC, 60th Session, 1975, Report VII(1), pp. 9-16.

[3] ILC, 61st Session, 1976, Report IV(1), para. 14; ILO: *Record of Proceedings*, ILC, 61st Session, 1976, No. 21, para. 36.

adopted[4] and, during the second discussion, a proposal that the consultations envisaged should encompass all manner of consultations, including written ones, received general agreement.[5]

53. As a result, the very flexible wording of the Convention leaves considerable latitude to the Members with regard to the choice of consultation procedures, while the Recommendation provides a non-exhaustive list of examples of ways in which consultations might be undertaken. According to Article 2, paragraph 2, of the Convention, "the nature and form of the procedures" which the Member "undertakes to operate" in accordance with Article 2, paragraph 1, "shall be determined in each country in accordance with national practice, after consultation with the representative organizations, where such organizations exist and such procedures have not yet been established". The Recommendation, in Paragraph 2(3), indicates that: "For instance, consultations may be undertaken: (a) through a committee specifically constituted for questions concerning the activities of the International Labour Organisation; (b) through a body with general competence in the economic, social or labour field; (c) through a number of bodies with special responsibility for particular subject areas; or (d) through written communications where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient."

54. The various options proposed by the Recommendation are only indicative, and are therefore neither mutually exclusive nor exhaustive. In practice, Members often combine written and oral consultations, and the latter do not necessarily take place within a permanent institutional framework.

[4] ILC, 61st Session, 1976, Report IV(1), para. 30.

[5] ILO: *Record of Proceedings*, ILC, 61st Session, 1976, No. 21, para. 18.

I. CONSULTATIONS WITHIN AN INSTITUTIONAL FRAMEWORK

1. Bodies with special competence for ILO matters

55. The establishment of permanent tripartite committees specifically to consider ILO matters is the oldest and most widespread form of institutional consultation procedure. Such committees were part of established practice well before the adoption of the 1976 instruments in *Denmark*, *Finland*,[6] *Germany*, *India*, *Norway* and *Sweden*.[7]

56. In *San Marino*, a tripartite committee was established in response to a need which arose when the country joined the ILO.[8] In the *United States*, a Cabinet-level Committee was established under the President's Office to ensure tripartite consultation at a time when the country's withdrawal from the Organization was being considered. Following the country's return to the ILO at the recommendation of that Committee, it was reformed as a Federal Advisory Committee (the President's Committee on the ILO).[9] This Committee considers, among other matters, the conclusions of the Tripartite Advisory Panel on International Labour Standards (TAPILS), which is responsible for the re-examination of unratified Conventions.

[6] Decree No. 851/77 of 24 Nov. 1977 respecting the Finnish Advisory ILO Committee was adopted during the ratification procedure.

[7] The Ordinance of 8 Dec. 1977 containing standing instructions for the ILO Committee codified and clarified this practice following ratification of the Convention.

[8] Decision No. 20 of 21 July 1983 of the Congress of State concerning participation in ILO activities.

[9] Executive Order No. 12216 of 18 June 1980.

57. Special advisory committees have been established with a view to or following ratification of the Convention in *Argentina*,[10] *Egypt*,[11] *Estonia*,[12] *France*,[13] *Iceland*,[14] *Iraq*,[15] *Republic of Korea*,[16] *Malawi*,[17] *Poland*,[18] *Trinidad and Tobago*[19] and *Uruguay*.[20] Such committees have also been established subsequently to supplement or replace existing consultation procedures in *Côte d'Ivoire*,[21] *Guatemala*,[22] *Hungary*[23] and the *Syrian Arab Republic*.[24]

[10] Order of the Minister of Labour and Social Security No. 990 of 22 Sep. 1990 establishing the Tripartite Consultation Committee to Promote the Application of International Labour Standards.

[11] Ministerial Order No. 111 of 1982 establishing a Permanent Tripartite Consultation Committee on ILO Activities.

[12] Regulation of the Estonian ILO Council adopted by consensus on 24 Nov. 1993.

[13] Order of the Minister of Social Affairs and National Solidarity of 18 Nov. 1983 establishing the ILO Advisory Committee.

[14] In accordance with an administrative practice dating from 1981.

[15] Order of the Minister of Labour No. 759 of 17 Aug. 1983 establishing a national tripartite consultative committee on international labour Conventions and Recommendations.

[16] Council for International Labour Affairs.

[17] Decision of 9 Aug. 1985 establishing the Tripartite Committee on Ratification of ILO Conventions.

[18] Ordinance of the Prime Minister, No. 1 of 5 Jan. 1990 establishing the Polish Tripartite Committee for Co-operation with the ILO.

[19] Cabinet Decision of 16 May 1996 establishing the 144 Tripartite Consultation Committee.

[20] Order of the Ministry of Labour and Social Security of 11 Mar. 1985. A tripartite ILO working group had been set up in the Ministry of Labour in 1967.

[21] Order of the Ministry of Employment and the Public Service No. 834/EFB/CAB.1 of 26 Jan. 1995 establishing a Tripartite Committee on ILO Matters.

[22] Order No. 93-95 of the Ministry of Labour and Social Protection establishing the Tripartite Committee on International Labour Issues.

58. Several countries which have not ratified the Convention also have similar committees, including *Japan* (where in accordance with a long-established practice there is a meeting on international labour issues and its ILO subcommittee), *Angola*,[25] the *Czech Republic*,[26] and *Kuwait*.[27]

59. These bodies, most of which have between ten and 20 members,[28] meet the requirements of Article 3 of the Convention. Representatives of employers and workers are appointed directly by their respective organizations or, more frequently, are appointed after being nominated by those organizations and participate on an equal footing. Particular categories of employers or of workers can also be represented without infringing the principle of equal representation.[29] For example, in *France*, in addition to representatives of employers and of the five most representative trade union organizations, representatives of teachers and farmers also participate in the work of the ILO Advisory Committee. In *Norway*, representatives of shipowners and seafarers sit with the employers' and workers' representatives respectively on the tripartite ILO Committee.

[25] The National ILO Council established on 26 May 1999 under an agreement between the Government and the most representative employers' and workers' organizations.

[26] Order of the Minister of Social Affairs and Labour No. 1214 of 30 Oct. 1995.

[27] Decree No. 50/91 of 16 Aug. 1991 establishing the National ILO Committee.

[28] Statute of the Commission for Co-operation with the ILO, adopted jointly by the Minister of Labour and Social Affairs and the Minister of Foreign Affairs (1993).

[29] Order of the Minister of Social Affairs and Labour No. 114 of 1996 establishing a Committee for the study of labour standards and Conventions.

[28] This varies according to the country from three to 40 members, and depends on the number of employers' and workers' organizations represented and on the place accorded to the various administrative authorities concerned among the government representatives. Several of these committees have both titular members and substitute members.

[29] With regard to the representation of public employers, see *supra*, para. 36.

60. Committees of this type are generally instituted under the auspices of the minister responsible for labour issues, and are more often than not chaired by a representative of the minister. Other authorities concerned may also be represented. For example, it is common for a representative of the minister of foreign affairs to participate in the work of these committees.

61. In some countries, the advisory committee may not be simply a forum for exchanging opinions, but may issue formal opinions or decisions. In *Malawi*, for example, decisions made by the advisory committee are binding on the Minister of Labour.[30] In *Finland*, the Decree respecting the ILO Committee provides for decisions to be taken by a simple majority. In *Trinidad and Tobago*, the Committee's standing orders provide for a vote on a decision in the event that there is no consensus. In *France*, on the other hand, the Order establishing the Advisory Committee stipulates that opinions are gathered without recourse to a vote.

2. Bodies with general competence in the economic, social or labour fields

62. The Recommendation refers to two different types of advisory bodies. The first, which take the form of "economic and social councils", generally have a mandate covering all economic, social and development issues and often include members representing interests other than those of employers and workers. The second, in the form of "labour advisory councils", are established with the more specific aim of allowing

[30] Although the composition of the Committee (two employers' representatives, two workers' representatives and five government representatives) ensures that no decision may be taken without the Government's approval.

consultations between employers' and workers' representatives on labour and employment issues.[31]

63. As regards bodies of the first type, the information available tends to confirm the finding of the Committee in its 1982 General Survey that they hardly ever seem to be consulted on the matters referred to in the instruments.[32] The Committee has identified only one clear case, that of *Romania*,[33] in which an economic and social council has a clear mandate to consider such issues. In *Croatia*, the Economic and Social Council established in 1997 has an international relations committee responsible for considering ILO activities, but this committee has yet to begin its work.[34]

64. The reports of a number of other countries refer to the existence of similar bodies, without indicating whether they actually carry out the consultations envisaged by the Convention and Recommendation under the terms of the provisions which establish their general competence.[35] The Committee also notes that, where it has been proposed in some countries bound by the Convention that such bodies should also be able to consider questions relating to the ILO's standard-setting activities, such a

[31] Both types may exist side by side, as in *Belgium* (the Central Economic Council and National Labour Council).

[32] General Survey of 1982, para. 76.

[33] The 1997 Law on the Organization and Functioning of the Economic and Social Council states in section 6(d) that the fulfilment of obligations arising out of Convention No. 144 is one of the responsibilities of the Council.

[34] According to the Government's report.

[35] The first report of *Algeria* on the application of the Convention refers to Presidential Decree No. 93-225 of 5 November 1993 respecting the establishment of the National Economic and Social Council, an "advisory body for dialogue and consultation in the economic, social and cultural fields". In *South Africa*, the National Economic, Development and Labour Council Act, No. 35 of 1994 (NEDLAC) provides that the Council consider proposed labour legislation. The report of *Kazakhstan* mentions the activities of the National Tripartite Committee for Social Partnership in the economic, social and industrial relations fields.

proposal has not generally been followed up.[36] In *Spain*, the possibility was discussed when the Economic and Social Council was established.[37] In *Hungary*, immediately after the ratification of the Convention, it was proposed that the required consultations should take place within the Interest Reconciliation Council, but in the end it was decided to set up a committee with special competence for these matters.[38]

65. On the other hand, examination of questions relating to international labour standards or ILO activities is often one of the responsibilities of advisory bodies of the second type. In *Namibia*, the competence of the Labour Advisory Council to consider these questions is established by the Labour Act.[39] Similarly, in *Lesotho*, the competence of the National Advisory Committee on Labour is established under the Labour Code.[40] In *Swaziland*, legislation provides that the Labour Advisory Board is competent to make proposals for action with regard to the matters for consultation covered by the Convention.[41] Formulating proposals concerning ILO Conventions is also part of the mandate of the National Council for Social Partnership of *Ukraine*.[42] In *Costa Rica*, the Decree issuing the rules of procedure of the Supreme Labour Council[43] states that the Council shall be responsible, among other things, for conducting consultations on the matter referred to in Article 5,

[36] For example, in the case of *Turkey*.

[37] Act No. 21/91 of 17 June 1991 establishing the Economic and Social Council.

[38] See *supra*, note 23.

[39] Section 8, paragraph 1(d) of the Labour Act of 13 March 1992, *Labour Law Documents*, 1992/2.

[40] Section 42 of Labour Code Order, No. 24 of 1992.

[41] Section 19 of the Employment Act, No. 5 of 26 September 1980.

[42] Section 4 of the Regulation of the National Council for Social Partnership promulgated by Presidential Decree of 27 April 1993.

[43] Decree No. 27272-MTSS of 20 August 1998.

paragraph 1, of Convention No. 144. In *El Salvador*, one of the functions of the Supreme Labour Council is to "advise the Government in its relations with the ILO".[44] In *Latvia*, the Regulation of the National Tripartite Cooperation Council, which was adopted by agreement, states that the Council considers proposals for the ratification and implementation of Conventions.

66. Where the texts establishing the advisory labour body do not explicitly state that it must be consulted on the matters covered by the Convention and Recommendation, such consultations may be organized subsequently, most often under the auspices of a subcommittee with special competence for ILO issues.[45] In *Greece*, for example, a section for the promotion of international labour standards was set up by decree within the Supreme Labour Council for the purposes of holding the consultations required by the Convention.[46] The advisory body may also take advantage of its power to organize its own work in order to set up a specialized committee of this type. In *Australia*, for example, the National Labour Consultative Council has set up a Committee on International Labour Affairs. In *Suriname*, the Labour Advisory Board has established a subcommittee on ILO matters. In *Lithuania*, the Tripartite Council has established the Permanent Commission for Tripartite Consultations to promote the implementation of international labour standards. In *Belgium*, following the ratification of the Convention, a protocol agreement was concluded between the Minister of Employment and Labour and the National Labour Council defining the consultation procedures of the Council, which has set up an ILO committee.

[44] Decree No. 69 of 21 December 1994.

[45] The advisory council may also be the consultative body for the purposes of the Convention by virtue of its general consultative competence in labour matters and in the absence of any specific provision to that effect, as is the case in *Cyprus*.

[46] Presidential Decree No. 296 of 4 July 1991 on the "Procedure for the Promotion of the Application of International Labour Standards".

67. The composition of labour advisory councils generally meets the requirements that representatives be chosen freely by their organizations and that employers and workers are represented on an equal footing. Participation by persons other than representatives of the most representative organizations is sometimes envisaged, either on a permanent basis or as a function of the items on the agenda. In *Belgium*, for example, representatives of self-employed workers and farmers sit on the National Labour Council with the employers. In *Greece*, the composition of the competent section of the Supreme Labour Council depends on the subject under discussion: where it concerns public officials, representatives of the relevant ministries participate as employers and representatives of the public officials participate as workers; when maritime questions are discussed, representatives of shipowners and of seafarers sit in place of representatives of employers and workers, respectively.

68. Consultations within the labour advisory councils can, more frequently than is the case on committees with special competence for ILO matters, lead to the adoption of formal opinions. In *Belgium*, the National Labour Council issues an opinion adopted by consensus or, where no consensus is reached, issues the different opinions expressed. In *Costa Rica*, the rules of procedure of the Supreme Labour Council provide that decisions are taken by consensus. The Regulation of the National Tripartite Cooperation Council in *Latvia* states that decisions taken by agreement of the three parties are binding upon them. In *Suriname*, the Labour Advisory Board must, under the terms of the Decree under which it was established, adopt opinions by a simple majority, although the minority opinion may also be issued if so requested.

II. Consultations through written communications

69. The consultations required under the Convention are undertaken principally through written communications in *Austria*, *Barbados*,

Mexico, *Netherlands*, *New Zealand*, *Portugal*, *Spain*, *Turkey*, *United Kingdom* and *Venezuela*. In a number of these countries, the consultations may be supplemented, where necessary, by informal exchanges or ad hoc meetings on particular subjects.

70. Consultations through written communications are also undertaken in addition to those held in special bodies in *Australia*, *Cyprus*, *France*, *Germany*, *India*, *Mauritius* and *Norway*. In *Chile*, the Tripartite Committee for Convention No. 144 is responsible for reviewing unratified Conventions, while all the other matters for consultation under the terms of Article 5, paragraph 1, of the Convention give rise to written exchanges.

71. According to the Recommendation, consultations through written communications should be undertaken only "where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient". In this regard, the Committee has considered, in the context of its examination of the reports provided under article 22 of the Constitution, the case of *Portugal* where such procedures had been established before the Convention was ratified. Following ratification, the employers' and the workers' organizations indicated that, in their view, a procedure based exclusively on written communications was not sufficient to guarantee "effective" consultations within the meaning of the Convention. The Government referred to Article 2, paragraph 2, of the Convention to emphasize that, since the procedures had been established before ratification, it did not consider itself obliged to consult the representative organizations on the nature and form of those procedures.[47] However, the Committee considers that the provisions of Article 2, paragraph 2, should not be interpreted as excluding any possibility of re-examining existing procedures in consultation with the organizations which participate in them. Indeed, it would be paradoxical, and clearly contrary to the aims of the Convention,

[47] Direct request on the application of the Convention to *Portugal*, 1987.

if the consequence of ratification were to fix those procedures in a form which the parties to the consultations considered unsatisfactory.

III. Other consultation procedures

72. From the available information, it would appear that the suggestion in the Recommendation that consultations may be undertaken "through a number of bodies with special responsibility for particular subject areas" is not followed by any country. As was the case at the time of the previous Survey,[48] the reports referring to the existence of different specialized bipartite or tripartite bodies[49] give no indication of the extent to which these bodies are actually used on a regular basis for the consultations covered by the instruments in question. It would appear that these bodies at most play a supporting role in consultations, when their opinion is sought on a matter within their mandate.

73. Conversely, consultation practices that were not envisaged by the Recommendation are applied in certain countries. In *Brazil*, ad hoc tripartite committees are regularly set up by ministerial order for the purpose of considering the prospects of ratification or implementation of particular instruments. In *China*, apart from the consultations undertaken on the points listed in Article 5, paragraph 1, of the Convention, it is customary to hold an annual high-level tripartite meeting to review all matters relating to international labour standards.

[48] General Survey of 1982, paras. 81-82.

[49] For example, in areas such as industrial relations, wages, employment and training, discrimination in employment, social security or occupational safety and health.

MATTERS TO BE COVERED BY CONSULTATIONS

4

74. Under the terms of Article 2, paragraph 1, of the Convention, effective consultations between representatives of the government, of employers and of workers have to cover "matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1," of the Convention. The matters enumerated in this provision relate to the Organization's standard-setting activities; consultations must be held on proposed texts, the submission to the competent authorities of the instruments which are adopted, their re-examination at appropriate intervals, the reports to be made on ratified Conventions and proposals for the denunciation of ratified Conventions.

75. Also with regard to standards-related activities, the Recommendation provides that these consultations should also cover the reports to be made on unratified Conventions and Recommendations, and the measures which might be taken to promote their implementation. The Recommendation adds that the extent should be determined to which these consultation procedures should also be used for other aspects of ILO activities, such as technical cooperation activities, the resolutions and conclusions adopted at its conferences and meetings and the promotion of the Organization.

76. The Committee addresses below the consultations held on international labour standards, making a distinction between those which are required by the Convention and those which are only envisaged by the Recommendation, and then turns to consultations on other aspects of the ILO's activities, as they are proposed by the Recommendation. It also notes the indications provided in several reports on consultations which, although not envisaged by the 1976 instruments, are nevertheless held in certain countries on other matters of concern to the Organization.

I. CONSULTATIONS ON INTERNATIONAL LABOUR STANDARDS

1. Consultations required by the Convention

77. In countries in which consultations are held in the framework of a specialized body, it is not uncommon for the legal text establishing that body's terms of reference to establish its competence with regard to the points enumerated in the Convention by referring explicitly to Article 5, paragraph 1, or by reproducing its terms.[1] In other countries where this type of body has also been established, recourse to written communications may nevertheless be envisaged for consultations on certain matters.

(a) Items on the agenda of the Conference

78. Under the terms of Article 5, paragraph 1(a), of the Convention, consultations have to be held on "government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference".

[1] This is the case, for example, in *Colombia, Costa Rica, Côte d'Ivoire, Egypt, Finland, Greece, Hungary, Poland, Syrian Arab Republic* and *Trinidad and Tobago*.

79. Representative organizations of employers and workers must therefore, under the terms of this provision, be consulted at each of the preparatory stages of the double discussion procedure[2] on items on the agenda of the Conference with a view to the adoption of new instruments. In the first place, these are held with a view to preparing the government's reply to the Office questionnaire; and in the second place, concerning the comments which the government may wish to make on the proposed texts of instruments prepared by the Office with a view to their examination during the second discussion at the Conference.

80. Through its reply to the Office questionnaire and its comments on the proposed texts, each member State is able to exercise a decisive influence on the content of instruments which are being prepared. All the national contributions combined allow the Conference to base its discussions on as precise a knowledge as possible of the national situation, concerns and expectations of member States. Their active participation in this stage of the work is therefore an essential guarantee for the pertinence and effectiveness of the standards.

81. In its 1971 resolution, the Conference referred to the consultation of representative organizations concerning replies to questionnaires as one of the aspects which should be promoted to strengthen tripartism in the activities of the Organization. Based on a draft amendment submitted by the Governing Body, which itself used the wording of the 1971 resolution, the Conference, at its session in 1987, amended the articles of its Standing Orders respecting the preparatory stages of single-discussion and double-discussion procedures by introducing provisions requesting Governments to consult the most representative organizations of employers and workers before finalizing their replies to questionnaires and their comments on proposed Conventions and Recommendations, so that the comments of employers'

[2] In the event of a single discussion, consultations are only held on replies to the Office's questionnaire.

and workers' organizations can be taken into consideration in the Office's reports.[3]

82. In the case of States which are bound by the Convention, the consultation of representative organizations on the items of the agenda of the Conference is an obligation which they fulfil in various manners. Consultation in the form of written communications appears to be the most widespread,[4] although draft replies and comments by the government may also be submitted to the national committee responsible for matters relating to the ILO.[5] The two systems may also be combined.[6]

83. As in the case of the other matters to be covered by consultation, the Government has to take into consideration the opinions of the representative organizations before finalizing its position, although this does not require the inclusion of these opinions in its communication to the Office. However, in certain countries it may be envisaged that, in the event of significant differences between the positions of the partners in the consultations, this should be mentioned in the final national contribution.[7]

(b) Submission of instruments to the competent authorities

84. Under the terms of Article 5, paragraph 1(b), of the Convention, consultations have to cover "the proposals to be made to the competent

[3] Articles 38 and 39 of the Standing Orders of the International Labour Conference, *Record of Proceedings*, ILC, 73rd Session 1987, Nos. 2 and 14.

[4] Including in countries which have established committees which are competent for matters relating to the ILO, such as *Australia*, *Denmark*, *France*, *India*, *Malawi* and *United States*.

[5] This is the case, for example, in *Belgium* and *Sweden*.

[6] In *Cyprus*, written consultations may be supplemented at the request of one or other of the parties by consultations in the Labour Advisory Board or the holding of an ad hoc meeting.

[7] This is the case, for example, in *Denmark*.

authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution".

85. As recalled by the Committee in its comments on this subject in its General Report of 1998, the aim of the submission is to encourage a rapid and responsible decision by each member State on the instruments adopted by the Conference.[8] In this respect, the Governing Body's Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities emphasizes that this obligation does not require the government to propose the ratification or application of the instrument in question. Governments have complete freedom as to the nature of the proposals to be made on the action to be taken. However, the representative organizations must be consulted beforehand on the nature of the proposals.

86. Depending on the country, the representative organizations may be requested to make known their point of view on the action to be taken with regard to new instruments independently, with the texts being merely transmitted to them for their opinions or they may be requested to examine a draft proposal, either by means of an exchange of written communications or in the competent advisory body.[9] The government is not bound to communicate to the competent authority the opinions which have been expressed to it. However, this practice is followed in certain countries, particularly where consultation gives rise to the adoption of a formal opinion by the competent advisory body.[10]

[8] See: *Report of the Committee of Experts*, 1998, paras. 218-227.

[9] In *Brazil*, an ad hoc tripartite committee is established to examine newly adopted instruments.

[10] In *Belgium*, consultation gives rise to the adoption of an opinion by the National Labour Council. In *Costa Rica*, the opinion of the Higher Labour Council is transmitted to the Legislative Assembly. In *Cyprus*, the recommendation of the Labour Advisory Board is an integral part of the document of submission.

(c) *Re-examination of unratified Conventions and of Recommendations*

87. Under the terms of Article 5, paragraph 1(c), of the Convention, consultations have to cover "the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate".

88. This provision is an extension of the previous one. The submission of new instruments to the competent authorities has to take place within a period of from one year to 18 months of their adoption by the Conference and the circumstances which may give rise to a decision that it is not possible or desirable to ratify or implement them may change subsequently. The re-examination of these instruments provides an opportunity to assess whether the developments which have occurred since their submission have changed the prospects for their ratification or application.

89. This re-examination has to take place "at appropriate intervals". During the preparatory work, the clarification that this re-examination should occur "at least once a year" was rejected so that this provision could not be interpreted as requiring the re-examination every year of all unratified Conventions and Recommendations to which effect had not yet been given, but rather as calling for a continuous process of review with a programme spread over a period of time.[11]

90. Although the choice of the instruments to be re-examined and the determination of "appropriate intervals" are broadly left to national practice, they are nevertheless frequently inspired in practice by the conclusions and recommendations of the Organization respecting standard-setting policy. For example, the instruments classified by the Governing Body as among those whose ratification and application

[11] ILC, 61st Session, 1976, Report IV (2), pp. 23-24; ILC, *Record of Proceedings*, 61st Session, No. 21, para. 29.

should be promoted as priority instruments would appear to be amongst the ones which are most frequently reviewed.[12]

(d) Reports on ratified Conventions

91. Under the terms of Article 5, paragraph 1(d), of the Convention, consultations have to cover "questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution".

92. The Committee once again cannot overemphasize the fact that the obligation to consult the representative organizations on the reports to be made concerning the application of ratified Conventions must be clearly distinguished from the obligation to communicate these reports under article 23, paragraph 2, of the Constitution. To fulfil their obligations under this provision of the Convention, it is not sufficient for governments to communicate to employers' and workers' organizations copies of the reports that they send to the Office, since any comments that these organizations may subsequently transmit to the Office on these reports cannot replace the consultations which have to be held during the preparation of the reports.

93. These consultations generally take place in writing, with the government transmitting to the representative organizations a draft report in order to gather their opinions before preparing its definitive report. Although it is not under the obligation to do so, the government may consider it useful to include in the report that it sends to the Office, or in an annex to it, a summary of the comments received from employers and workers, as well as its own observations on these comments.[13] In some

[12] This is the case, for example, in *Mexico* and *Sri Lanka*. In the *United States*, the agenda of the Tripartite Advisory Panel on International Labour Standards (TAPILS) regularly includes the examination of prospects for the ratification of both fundamental and other Conventions.

[13] In *Finland*, this manner of presenting the contributions of the social partners to the reports has been agreed upon in the Advisory ILO Committee.

countries, the competent advisory body examines the draft report[14] and may even formally approve the draft text.[15]

94. In most countries in which the Convention is in force, the government consults the representative organizations in one way or another on all the reports to be made on the application of ratified Conventions. However, the case has arisen of a government[16] which indicated in each of its reports on the application of the Convention that no questions had arisen concerning any of the reports due under article 22 of the Constitution, even though the application of several Conventions had given rise to observations by the Committee and discussions in the Conference Committee, and the representative organization of workers had indicated that the Government's reports were communicated too late and in their definitive form. This practice was criticized by the Conference Committee, which requested the Government to re-examine the procedures that it followed to ensure effective prior consultations within reasonable time limits with a view to the preparation of reports on the application of ratified Conventions, particularly where they had been the subject of comments by the Committee of Experts.[17]

95. Although an isolated case, the Committee nevertheless wishes to indicate the meaning which it deems should be given to "questions arising" out of these reports. This wording, which was already contained

[14] In *Iraq*, the tripartite national committee includes a subcommittee for reports due under Article 22 of the Constitution. In the *Philippines*, draft reports are examined by a working group of the Tripartite Industrial Peace Council. In *Uruguay*, specific sessions of the ILO Working Group are devoted to the preparation of reports.

[15] This was the case, for example, under the rules of procedure of the Tripartite Consultative Council of the Employers, State and Trade Unions of *Latvia*, whose functions have been taken over by the National Tripartite Cooperation Council. The Committee notes that in *Belgium*, it is the competent advisory body, the National Labour Council, which itself establishes the report on the application of Convention No. 144. The report is merely transmitted by the Government.

[16] *United Kingdom*.

[17] ILC, *Record of Proceedings*, 80th Session, 1993, No. 25, p. 25/67.

in the Office's questionnaire during the preliminary stages of the preparation of the instruments, was retained throughout the preparatory work without any explanation. In the above case, it would appear that the government considered that it was responsible on its own for determining whether "questions" arose or not. However, nothing in the preparatory work permits such an interpretation which, moreover, would be contrary to the objective of the Convention, since it would leave it at the discretion of the government whether or not to proceed to the consultations required on one of the matters covered by the Convention. In the opinion of the Committee, it can be confidently affirmed that the objective of the consultations required by the provision is to determine whether or not "questions" arise out of the reports to be made.

(e) Proposals for the denunciation of ratified Conventions

96. Under the terms of Article 5, paragraph 1(e), of the Convention, consultations have to cover "proposals for the denunciation of ratified Conventions".

97. Consultations on this subject have indeed been held in several countries in recent years.[18] Many reports from countries where this subject of consultation is not specifically provided for in the national provisions indicate that the situation has not occurred, but that the government would hold the required consultations if it envisaged denouncing a Convention. Where they exist, the competent advisory bodies would frequently appear to be the normal forum for such consultations.

98. The Committee has had the occasion[19] to indicate that, although the government is under the obligation to consult the representative organizations when it envisages denouncing a Convention, it is not bound

[18] For example, in *Chile*, *Netherlands* and *Portugal*.

[19] In a direct request on the application of the Convention addressed in 1993 to the Government of *Sweden*.

to report in its letter of denunciation the opinions opposing denunciation expressed during these consultations.

2. Additional consultations envisaged by the Recommendation

(a) Reports on unratified Conventions and on Recommendations

99. Under the terms of Paragraph 5(e) of the Recommendation, consultations should cover "questions arising out of reports to be made to the International Labour Office under articles 19 and 22 of the Constitution".

100. In addition to the consultations on reports due under article 22 of the Constitution, which are required by Article 5, paragraph 1(d), of the Convention, the Recommendation therefore adds that consultations should also cover the reports to be made under article 19 of the Constitution. These consist of the reports which are requested by the Governing Body on the position of national law and practice relating to matters dealt with in unratified Conventions or in Recommendations, and the effect which has been given, or is proposed to be given, to these instruments.[20]

101. In many countries which hold consultations with representative organizations on the preparation of the reports to be made under article 22 of the Constitution on the application of ratified Conventions, consultations also cover the reports to be made under article 19.[21] Where arrangements have been made to hold consultations on reports on ratified Conventions, there would appear to be no obstacle preventing them being

[20] Article 19, paragraphs 5(e) and 6(d), of the Constitution of the ILO.

[21] This is the case, for example, in *Australia, China, Finland, Germany, India, Republic of Korea, Mauritius, Philippines, Spain, United Kingdom, United States, Uruguay.*

utilized for reports on unratified Conventions and on Recommendations.[22] Furthermore, the preparation of these reports provides an additional opportunity to re-examine, in consultation with the representatives of employers and workers, unratified Conventions and Recommendations, in accordance with Article 5, paragraph 1(c), of the Convention.[23]

(b) Measures to give effect to Conventions and Recommendations

102. Under the terms of Paragraph 5(c) of the Recommendation, consultations should be held, "subject to national practice, on the preparation and implementation of the legislative or other measures to give effect to international labour Conventions and Recommendations, in particular to ratified Conventions (including measures for the implementation of provisions concerning the consultation or collaboration of employers' and workers' representatives)".

103. In certain countries, the examination of the measures to be taken to give effect to international labour standards is explicitly included in the terms of reference of the competent advisory body.[24] The case has also arisen[25] where such a body has itself taken the initiative of examining the question when it considered that a proposed amendment to the law was not in conformity with the provisions of a ratified Convention.

[22] In contrast, in *Trinidad* and *Tobago*, the terms of reference of the Tripartite Consultation Committee include each of the matters for consultation envisaged by the Recommendation, with the sole exception of the reports to be made under article 19.

[23] In *New Zealand*, the requests for reports under article 19 determine the choice of the instruments to be re-examined under this provision of the Convention.

[24] This is the case, for example, in *Malawi*, where the Tripartite Committee on the Ratification of ILO Conventions is responsible for making recommendations for the implementation in the law of ILO instruments, whether or not they are ratified. In *Uruguay*, the ILO Working Group is responsible for analysing all the aspects of the legislation that is in force or is envisaged which are directly related to the ILO's international standards on labour and social security.

[25] In *Sweden*.

104. It should also be noted that consultations on the reports to be made, and particularly reports on the application of ratified Conventions under Article 5, paragraph 1(d), of the Convention, necessarily include an assessment of the legal and other measures intended to give effect to the instruments.[26] This is particularly the case where the application of ratified Conventions gives rise to comments by the Committee.[27]

3. Other consultations

(a) Representations and complaints procedures

105. The reports of certain countries indicate that the competent advisory body has undertaken an examination of the effect to be given to the recommendations of the Governing Body relating to representations made under article 24 of the Constitution[28] or allegations of the violation of freedom of association.[29] However, one Government[30] considers that the national Tripartite ILO Committee is not the appropriate body in which to raise issues which may bring the Government into opposition with one or other of the social partners.[31]

[26] The Government of *Iraq*, for example, has indicated that consultations are held on the situation of the legislation with regard to ratified Conventions on the occasion of the preparation of the reports to be made under article 22 of the Constitution.

[27] For example, in *Cyprus*, consultations were held specially on problems relating to the application of certain Conventions on the basis of the Committee's comments.

[28] *Iraq* and *Venezuela*.

[29] *Argentina*.

[30] *Sweden*.

[31] The Committee also notes that, in *Cote d'Ivoire*, the Order establishing the Tripartite Committee on ILO Matters provides that the Committee shall be consulted on "cases of national disputes in the field of labour before they are submitted to other national or international bodies". The Committee considers that such a provision should not restrict in any way the right of organizations of employers and of workers to refer such disputes to the competent bodies of the ILO, either by means of comments on the application of ratified Conventions, a representation

(b) ILO standard-setting policy

106. The reports provided by several countries indicate that tripartite consultations have been held on the work of the Governing Body relating to the standard-setting policy. In this way, consultations on the proposed items on the agenda of the Conference[32] provide the social partners with an opportunity to express their views at the national level at the very first stage of the procedure leading up to the preparation of new international labour standards, namely the selection of subjects on which standards could be developed. Consultations on the responses to be made to the requests of the Governing Body's Working Party on Policy regarding the Revision of Standards[33] and on the effect to be given to its recommendations[34] are an extension of the consultations envisaged by the instruments on the re-examination of ILO instruments and proposals for denunciations. In this respect, the Committee can only encourage an increasingly close association of the social partners in the ILO's standard-setting policy.

(c) Follow-up of the ILO Declaration on Fundamental Principles and Rights at Work.

107. One Government[35] indicated in its report on the Recommendation that it intends to request the views of the social partners on the reports to be provided in the context of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work of 1998. Governments which have not yet ratified all the fundamental ILO Conventions are called upon to submit reports under the follow-up to the

under article 24 of the Constitution or a complaint alleging the violation of freedom of association, since recourse to none of these procedures is subject to the requirement of the prior exhaustion of internal remedies.

[32] In *Canada, Chile, Finland, Guatemala, Norway* and *Sweden*.

[33] In *Belgium, Canada, Chile* and *Sweden*.

[34] In *Finland*.

[35] *United Kingdom*.

Declaration.[36] The Committee has been informed that, in submitting their reports under the follow-up to the Declaration, a number of governments have stated that the reports were prepared following consultations with the social partners. In view of the promotional nature of the follow-up to the Declaration, consultations on the preparation of these reports could usefully be included in the context of the consultations held in accordance with Article 5, paragraph 1(c), of the Convention on the re-examination at appropriate intervals of unratified Conventions "to consider what measures might be taken to promote their implementation and ratification as appropriate".

II. Consultations on other aspects of the ILO's activities

1. Consultations proposed by the Recommendation

108. Under the terms of Paragraph 6 of the Recommendation, "the competent authority, after consultation with the representative organizations, should determine the extent to which" consultation procedures "should be used for the purpose of consultations on other matters of mutual concern", such as the technical cooperation activities of the Organization, the action to be taken in respect of resolutions and conclusions adopted by its conferences and meetings, and the promotion of its activities.

(a) Technical cooperation activities of the ILO

109. In Paragraph 6(a), the Recommendation envisages that consultations could cover "the preparation, implementation and

[36] ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, section II(B)(1).

evaluation of technical co-operation activities in which the International Labour Organisation participates".

110. Both the Conference and the Governing Body have frequently stated the importance which they attach to the representatives of employers and of workers being closely associated with the Organization's technical cooperation activities. Most recently, the Conference emphasized in its resolution concerning the role of the ILO in technical cooperation, adopted at its 87th Session (1999), that "the unique composition of the ILO within the UN family as a body made up of trade unions, employers' organizations and governments, is a real strength which can be used to advantage in technical cooperation. This advantage must be used more systematically and more effectively." It therefore emphasized that the ILO should "integrate tripartite involvement at all stages of technical cooperation from its formulation to its management and implementation with a view to strengthening the capacity of the constituents".[37]

111. Little information has however been provided on consultations held on this subject, and this has mainly been from donor countries.[38] In one of these countries, a projects commission with responsibility, among other matters, for examining technical cooperation activities with multi-bilateral financing, has been established by the tripartite committee for matters relating to the ILO,[39] while in another these consultations are held in a different committee in the Ministry of Foreign Affairs.[40]

[37] ILC, *Record of Proceedings*, 87th Session, 1999, No. 22.

[38] Among the beneficiary countries, in the case of *India*, the examination of technical cooperation programmes is on the agenda of the Tripartite Committee on Conventions.

[39] In *Norway*.

[40] In *Denmark*. Furthermore, the report for *Germany* indicates that, although consultations on these matters are not held on a regular basis, the International Programme for the Elimination of Child Labour (IPEC), which is one of the most important technical cooperation projects in which the country participates, is the subject of frequent exchanges of views with the social partners.

(b) Resolutions and conclusions adopted by ILO conferences and meetings

112. In Paragraph 6(b), the Recommendation envisages that consultations could be held on "the action to be taken in respect of resolutions and other conclusions adopted by the International Labour Conference, regional conferences, industrial committees and other meetings convened by the International Labour Organisation".

113. Such consultations are held in practice in several countries and cover, for example, all matters other than standard-setting items on the agenda of the Conference,[41] the effect given to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy[42] and the conclusions of industrial committees.[43]

(c) Promotion of ILO activities

114. In Paragraph 6(c), the Recommendation envisages that consultations could be held on "the promotion of a better knowledge of the activities of the International Labour Organisation as an element for use in economic and social policies and programmes".

115. Certain reports referred in this respect to the activities undertaken jointly by the government and organizations of employers and of workers to promote better knowledge of the activities of the Organization.[44]

[41] In *Mexico*.

[42] In *Belgium* and *Finland*.

[43] In *India*. In the *Czech Republic*, the Commission for Cooperation with the ILO includes a sectoral activities section.

[44] For example in *Germany* to celebrate the 75th anniversary of the Organization and in the *United Kingdom* on the occasion of the 50th anniversary of the adoption of Convention No. 87.

2. Other consultations

116. Some reports refer to tripartite consultations on other matters concerning the Organization, such as the instruments of amendment of the Constitution[45] and the discussions of the Governing Body's Working Party on the Social Dimensions of the Liberalization of International Trade.[46]

117. The Committee also notes that, in several countries, the tripartite bodies which are competent to examine matters relating to the activities of the ILO are also consulted on similar or related activities undertaken by other global[47] and regional international organizations.[48]

[45] In *Guatemala*.

[46] In *France* and *San Marino*.

[47] For example, in *Iraq*, the Tripartite Commission was consulted on the draft United Nations Convention on migrant workers.

[48] For example, in *Finland*, on the activities of the Nordic Council, in *Kenya* on the work of the Labour Commission of the Organization of African Unity, and in *Kuwait* and the *Syrian Arab Republic* on the standard-setting activities of the Arab Labour Organization.

FUNCTIONING OF THE PROCEDURES 5

118. The instruments contain a series of provisions respecting the functioning of the consultation procedures in practice, relating to the frequency of consultation, responsibility for the administrative support of the procedures, the training of participants in the procedures, issuing an annual report and the coordination of the procedures with the activities of other bodies.

I. FREQUENCY OF THE CONSULTATIONS

119. Under the terms of Article 5, paragraph 2, of the Convention, "in order to ensure adequate consideration of the matters referred to in paragraph 1 of this Article, consultations shall be undertaken at appropriate intervals fixed by agreement, but at least once a year".

120. Although this provision requires that consultations be held at least once a year, it does not require them to cover every year each of the points set out in Article 5, paragraph 1, of the Convention. In particular, with regard to the re-examination of unratified Conventions and of Recommendations, consultations have to be held "at appropriate intervals", since the requirement to hold such consultations once a year

was explicitly rejected during the preparatory work.[1] The purpose of the wording "at least once a year" in this respect is to ensure against the possibility that no consultations are held for years at a time.[2] In practice, the frequency of consultations is determined by their subject matter. For example, while the submission of new instruments to the competent authorities requires annual consultations, it is clearly not the same in the case of proposals for the denunciation of ratified Conventions.

121. In most countries for which information is available to the Committee, consultations are indeed held at least once a year. In the case of consultations held within an institutional framework, specialized bodies with a small number of members appear to be able to hold meetings more frequently[3] than advisory labour councils.[4] In the latter case, however, meetings of commissions or working parties responsible for matters relating to the ILO may be held in the periods between plenary sessions. Furthermore, the possibility may be envisaged of holding meetings outside the normal schedule at the initiative of the president or members of the advisory body.[5]

122. Moreover, it should be emphasized that the instruments do not confine the initiative to governments in convening consultations. During the preparatory work, a proposed amendment designed to make it clear that it was for the government to initiate consultations was withdrawn due to the opposition of the Employer and Worker members, and it was

[1] See *supra*, para. 89.

[2] ILC, 61st Session, 1976, Report IV(2), p. 36.

[3] For example, even several times a month, where necessary, in *Costa Rica*, *Guatemala* and *Iraq*; once a month in *Egypt* and *Trinidad and Tobago*; and once every two months in *Finland* and *Norway*.

[4] For example, once or twice a year in *Australia*.

[5] For example, in *Australia*, *Cyprus* and *El Salvador*.

agreed that employers and workers might also request the convening of consultations.[6]

II. Administrative support

123. Under the terms of Article 4, paragraph 1, of the Convention, "the competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention". The Recommendation indicates in Paragraph 4 that the competent authority should assume responsibility for the financing of these procedures.

124. The administrative support of the procedures includes, among other elements, making meeting rooms available, correspondence and, where appropriate, the assistance of a secretariat. In most countries, this administrative support would appear to be provided by the ministry responsible for labour matters.[7]

III. Training of participants in the consultations

125. Under the terms of Article 4, paragraph 2, of the Convention, "appropriate arrangements shall be made" between the competent authority and the representative organizations "for the financing of any necessary training of participants" in the consultation procedures. The Recommendation indicates in Paragraph 3(3) that "measures should be taken, in cooperation with the employers' and workers' organisations concerned, to make available appropriate training to enable participants in the procedures to perform their functions effectively." It also indicates in

[6] ILC, *Record of Proceedings*, 61st Session, 1976, No. 21, para. 19.

[7] In certain countries, advisory labour councils may have their own secretariat, as in the case of the National Labour Council in *Belgium*.

Paragraph 4 that the financing of training programmes, where necessary, should be the responsibility of the competent authority.

126. The objective of these provisions is that, where training for participants in the consultations proves to be necessary, its financing is provided through appropriate arrangements between the parties concerned. The Convention does not require this financing to be borne by the government, while the Recommendation only proposes this solution "where necessary", that is in cases where their respective organizations cannot provide training for employer and worker participants.

127. Furthermore, as emphasized during the preparatory work, such arrangements should be made only where they are necessary, which is not generally the case in countries where a system of consultations is already in operation.[8]

128. In this respect, the reports of several countries indicate that specific training is not necessary, since the representatives of employers and workers are sufficiently well qualified and often have just as broad experience of matters relating to the ILO as the representatives of the government.[9] Furthermore, it may be agreed that any training needed for the participants in the consultations should be left to their respective organizations.[10]

129. However, in certain countries specific training is provided in practice to the participants with the support of the ILO, particularly at the time of the establishment of the consultation procedures.[11]

[8] ILC, *Record of Proceedings*, 61st Session, No. 21, para. 24.

[9] For example: *Mexico*, *Norway*, *Spain* and *United States*.

[10] As is the case, for example, in *Australia*, *Austria*, *Iceland* and *Sweden*.

[11] This was the case, for example, in *Estonia* and *Guinea*.

IV. Issuing an annual report

130. Under the terms of Article 6 of the Convention, "when this is considered appropriate after consultation with the representative organisations, where such organisations exist, the competent authority shall issue an annual report on the working of the procedures" provided for in the Convention.

131. This provision does not impose an obligation to issue an annual report, but it does require that the representative organizations shall be consulted on whether or not such reports should be issued. Nor does it lay down any requirements as to the form of such a report. During the preparatory work, it was stated that this report should not necessarily take the form of a separate publication, but could, for example, consist of a section of a more general report.[12] The annual report, covering "the working of the procedures", could for example include information on the composition of any consultative bodies, the number of meetings, their agenda, the proposals made and the conclusions reached. However, it would not necessarily enter into detail as to the opinions expressed during such consultations, nor of course would it disclose confidential information.[13]

132. The report on the consultation procedures takes the form of a separate publication in certain countries,[14] while in others it takes the form

[12] ILC, 61st Session, 1976, Report IV(2), p. 26.

[13] ILC, *Record of Proceedings*, 61st Session, 1976, No. 21, paras. 32-33. In *Australia*, for example, a provision of the National Labour Consultative Council Act, which establishes that the confidentiality of the discussions shall be respected, does not prevent the publication of the report on the activities of the Committee on International Labour Affairs as an annex to the annual report of the Department of Industrial Relations.

[14] *Finland*, *Norway*, *Sweden* and *Trinidad and Tobago*. The publication of such a report is also envisaged in *Côte d'Ivoire*.

of a section of a more general report, such as the annual report of the Ministry of Labour.[15]

133. In several countries, however, the participants in the consultations have agreed that it was not necessary to issue such reports.[16] Detailed records of the meetings or of records of the decisions of the consultative body, which are kept in many countries,[17] would also appear to be sufficient to recall the consultations held.

V. Coordination with other national bodies

134. The Recommendation indicates in Paragraph 8 that "measures appropriate to national conditions and practice should be taken to ensure coordination between the procedures" provided for in the instruments "and the activities of national bodies dealing with analogous questions".

135. This provision, which it was not deemed desirable to include in the Convention,[18] was designed to ensure that the procedures of consultation envisaged by the new instruments did not overlap with existing consultative bodies.[19] The reports provided do not contain detailed information on the manner in which effect is given to this provision. It should be noted that, in the fairly frequent case in which consultations are held within the advisory body responsible for labour matters, this institutional arrangement should suffice to ensure such

[15] This is the case, for example, in *Iceland* and *India*.

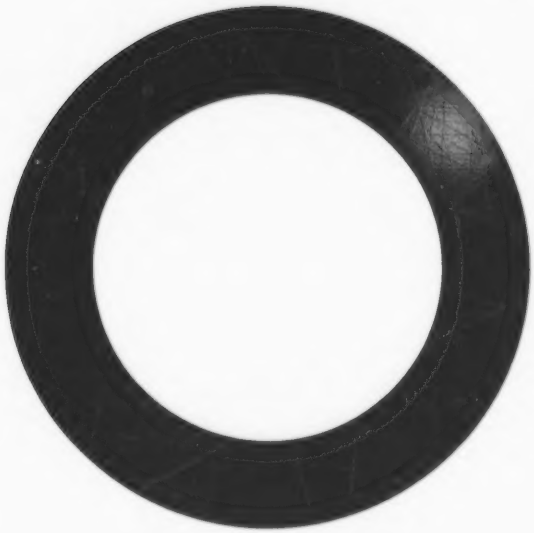
[16] This is the case, for example, in *Austria, Cyprus, Germany, Mexico, Netherlands* and *New Zealand*.

[17] This is the case, for example, in *Argentina, Belgium, Chile, Denmark, Greece, Guatemala* and *San Marino*.

[18] ILC, 61st Session, 1976, Report IV(1), para. 65.

[19] ILC, 60th Session, 1975, Report VII(2), pp. 36-38.

coordination. In countries where the required consultations are held through other procedures, this provision could be used to ensure that international labour standards are taken more fully into account in the work of advisory bodies with general responsibilities in the economic and social field, or in labour matters.



DIFFICULTIES OF AND PROSPECTS FOR RATIFICATION

6

I. DIFFICULTIES OF RATIFICATION

136. Several governments provided information in their reports on difficulties in national law and practice which are preventing or delaying the ratification of the Convention. The Committee notes that some of them included in their description of these difficulties ideas on how they intended to resolve them.

137. According to the Government of *Saudi Arabia*, the absence in the law of provisions which would give effect to the Convention is preventing its ratification. The Committee recalls in this respect, as it emphasized in Chapter II, that the application of the Convention does not require the adoption of specific legislation, but may be applied through customary law or an established practice.[1]

138. The Government of *Morocco* considers that the current national procedures are insufficient. It envisages the preparation, in

[1] Unless there are constitutional impediments or legislative provisions contrary to the Convention.

cooperation with the ILO, of regulations to establish the procedures required by the instruments, with the objective of ratifying the Convention. The Government of *Bahrain* also considers that the current legislation is not adequate for the application of the Convention. It indicates that its ratification will be examined in the light of the economic and social conditions in the country.

139. According to the Government of the *United Arab Emirates*, the federal structure of the State is an obstacle to ratification, while the Government of *Canada* wishes to be assured that consultations at the federal level are sufficient to meet the requirements of the Convention before proceeding to its ratification. The Committee notes in this respect that, in several federal states which are bound by the Convention, it appears to have been possible to hold the required consultations at the federal level to the satisfaction of the parties.

140. The designation of the representative organizations to participate in the required consultations raises difficulties in certain countries which prevent the full application of the instruments and, in the immediate future, the ratification of the Convention. The Government of *Cambodia* explains that it is experiencing difficulties in establishing the representativity of the recently created employers' and workers' organizations. The report of *Croatia* indicates that the trade unions have on several occasions requested the Government to envisage ratifying the Convention, but that the determination of representative organizations under the terms of Article 1 of the Convention, which is an indispensable prerequisite for the full application of its provisions, is still under discussion. For this reason, the Agreement on the establishment of the Economic and Social Council is only of a temporary nature. Once this issue has been resolved and a new agreement concluded, there will no longer be any obstacle to the ratification of the Convention. The Government of *Slovenia* considers that the ratification of the Convention will only be possible when the new Law on Chambers of Commerce, which is currently before the Parliament, has been adopted.

141. In more general terms, the report of *Viet Nam* refers to the difficulties encountered in the emergence of tripartism in the context of the transition to a market economy. The Government of *Cape Verde* considers that the application and ratification of the Convention require preliminary measures to raise the awareness of the social partners and establish appropriate structures.

142. Other reports refer to difficulties relating to the application of certain provisions of the Convention. The Government of *Tunisia* indicates that the arrangements which have to be made under Article 4, paragraph 2, of the Convention for the financing of any necessary training of the participants in the consultations are not envisaged by the law or practice, while the report of *Lebanon* raises the question of the assistance which could be provided by the ILO in this respect. The Committee refers on this issue to Chapter V, in which it emphasizes that the arrangements for the financing of training only have to be agreed upon between the parties when they are necessary for the holding of effective consultations and that the Convention imposes no obligation on the government to provide such financing.

143. The Government of *Lebanon* also considers that it might not be possible, within the established time limits, to hold the prior consultations required by Article 5, paragraph 1(d), on the reports to be made under article 22 of the Constitution, in view of the number of meetings which would be necessary to reach agreement between the parties. The Committee hopes that it has shown that the effective consultations required by the Convention do not require the reaching of agreement. With reference to Article 5, paragraph 2, of the Convention, the Government of *Tunisia* reports that the frequency of consultation is not laid down in national law or practice. However, it indicates that the ratification of the Convention remains under examination. According to the Government of *Canada*, a systematic procedure for the tripartite re-examination of unratified Conventions would need to be established to give effect to Article 5, paragraph 1(c), of the Convention before proceeding to its ratification.

144. Difficulties of an administrative nature are referred to by the Government of the *United Arab Emirates*, which emphasizes that the labour administration only has at its disposal limited resources to cope with the commitments deriving from the seven Conventions which have already been ratified and would not be able to take on new commitments. However, it expresses its determination to promote tripartite consultations on a regular basis, if necessary, by law. The report of *Canada* refers to the concern expressed by the representative organization of employers at the excessive formalities, additional costs and waste of time which would result from the ratification of the Convention. [2]

II. Prospects for ratification

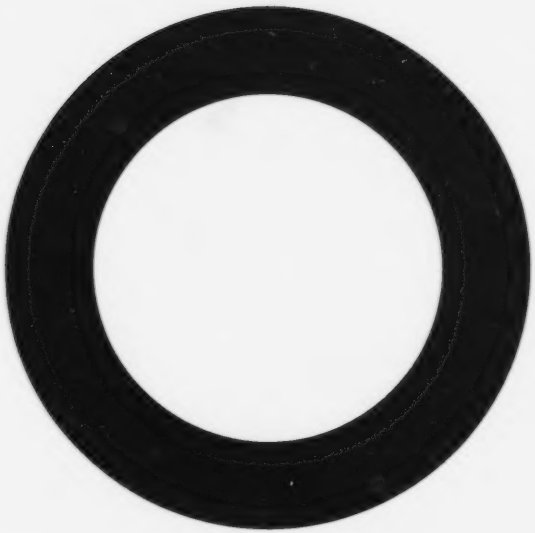
145. Several reports refer to ratification procedures which are currently under way, while others indicate that the Convention is among those of which ratification is envisaged in the near future.

146. Ratification procedures have been commenced in *Belize*, *Benin*, *South Africa* and *Switzerland*. In *Honduras* and *Kazakhstan*, the legislation to be submitted to Parliament with a view to ratification is under preparation.

[2] The Canadian Employers Council (CEC) considers that the spirit of the Convention is being met in practice without the necessity of formalizing the consultations which already take place. Employers give time voluntarily to attend meetings related to ILO matters, but time is a limited commodity and the establishment of a tripartite process would represent a considerable additional expense for them. Employers are firmly opposed to the integration of ILO matters into any pre-existing tripartite body, or the creation of a new body expressly for this purpose similar to European models of tripartite economic management, which are not favoured by employers. Given, on the one hand, the evident willingness of the Government to improve dialogue with its partners and, on the other hand, the associated costs for both employers and the tax payer, the employers consider that the ratification of the Convention is not warranted. For its part, the Confederation of National Trade Unions (CNTU) supports the ratification of the Convention, while recognizing that Canada already applies its provisions broadly in practice, while the Canadian Labour Congress (CLC) supports early ratification, which should be facilitated by current consultations.

147. Furthermore, the Governments of *Cuba* and *Peru* indicate that, since the required consultations are already broadly being held, ratification is under examination. In *Papua New Guinea*, the Convention is one of those of which ratification is envisaged. The Government of *Seychelles* states that the application of the Convention does not raise difficulties in practice and that it envisages its ratification in the near future.

148. The Government of *Singapore*, which considers that effective consultation procedures are in place, will continue to examine whether the ratification of the Convention would enhance the existing framework. In *Japan*, the Government considers that only partial effect is yet given to the Convention and that additional studies are required before envisaging its ratification.



FINAL REMARKS

149. In adopting the 1976 instruments, it was the intention of the Conference to promote the application at the national level of the principle of tripartism, which is both the fundamental characteristic of the Organization and the condition for its proper functioning. In particular, it wanted the tripartite dialogue which is essential to the work of the ILO to be extended at the national level through the operation of procedures for effective consultation with representatives of employers and of workers on each of the measures to be taken with regard to international labour standards.

150. Some 20 years after the coming into force of the Convention, the Committee greatly welcomes the fact that consultation procedures, in one form or another, now exist in the large majority of member States, including those which have not ratified the Convention, and are being further extended in these countries to more and more areas of the ILO's activities. Whilst admittedly several countries encounter difficulties, either in applying the Convention or in ratifying it, these are related, not to a lack of political will, but mostly to the choice of the most appropriate form of consultation, to the representativity of employers' and workers' organizations, to problems arising from the transition to political pluralism and the market economy, inadequate administrative resources, or to financial restraints.

151. It is noteworthy in this respect that none of the reports received contest the pertinence of the instruments, particularly when it is recalled that strong objections were raised during the preparatory work by a significant minority of governments concerning the very idea of extending the ILO's dialogue procedures to the national level. These objections, the persistence of which was still noted by the Committee in its Survey in 1982, had their origins in certain cases in a denial of the existence of differences between the interests of employers and workers, or the claim that such differences had been resolved in the national context. In other cases, fears were raised that the introduction of tripartite consultations on the ILO's standard-setting activities would infringe upon the law-making prerogatives of the State in this respect.

152. Not only is this mistrust of tripartism no longer in evidence, but many countries now emphasize the reinforcing effect of social dialogue on harmonious relations between governments and the social partners, as well as on the process of the democratization of public life. This is evidenced more significantly by the fact that the most recent ratifications of the Convention have come from African and Central and Eastern European countries now passing through a phase of transition to multipartism and a market economy. The consultations required by the instruments in themselves facilitate the development of social dialogue by providing an opportunity for the introduction of regular procedures for exchanges of views between the social partners, and between them and the government. In particular, effective social dialogue growing out of the systematic tripartite examination of the national position with regard to international labour standards can be instrumental in the settlement of conflicts and in the strengthening of the emerging democracy in new States.

153. By requesting reports under article 19 of the Constitution on Convention No. 144 and Recommendation No. 152, it was the wish and hope of the Governing Body to contribute to promoting the ratification of the Convention and the application of these instruments the priority nature of which it has regularly affirmed. The Committee is encouraged

by the result of its examination of these reports and by the progress so far accomplished in the application of the standards embodied in the instruments, but would still wish to emphasize how essential it is in strengthening the standard-setting and other activities of the Organization that such progress should be maintained and expanded in future years. With regard to the difficulties which remain, it is also a cause for satisfaction to be able to note that they do not affect the principle of tripartite consultation, but mostly concern practical obstacles which several governments have indicated that they are endeavouring to overcome. An increased effort to promote the ratification and application of the instruments, with the technical assistance of the Office, where necessary, should make it possible to envisage their universal application in the not too distant future. The Committee hopes that this General Survey would contribute to this promotional effort by improving understanding of the scope and importance of the instruments. The Committee therefore expresses the hope that Convention No. 144 will receive a large number of new ratifications in the near future.

APPENDIX A

TEXTS OF THE INSTRUMENTS OF 1976

Convention No. 144

CONVENTION CONCERNING TRIPARTITE CONSULTATIONS TO PROMOTE THE IMPLEMENTATION OF INTERNATIONAL LABOUR STANDARDS

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-first Session on 2 June 1976, and

Recalling the terms of existing international labour Conventions and Recommendations, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Consultation (Industrial and National Levels) Recommendation, 1960, which affirm the right of employers and workers to establish free and independent organisations and call for measures to promote effective consultation at the national level between public authorities and employers' and workers' organisations, as well as the provisions of numerous international labour Conventions and Recommendations

which provide for the consultation of employers' and workers' organisations on measures to give effect thereto, and

Having considered the fourth item on the agenda of the session which is entitled "Establishment of tripartite machinery to promote the implementation of international labour standards", and having decided upon the adoption of certain proposals concerning tripartite consultation to promote the implementation of international labour standards, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-first day of June of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Tripartite Consultation (International Labour Standards) Convention, 1976:

Article 1

In this Convention the term "representative organisations" means the most representative organisations of employers and workers enjoying the right of freedom of association.

Article 2

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, below, between representatives of the government, of employers and of workers.

2. The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation with the representative organisations, where such organisations exist and such procedures have not yet been established.

Article 3

1. The representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist.

2. Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken.

Article 4

1. The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention.

2. Appropriate arrangements shall be made between the competent authority and the representative organisations, where such organisations exist, for the financing of any necessary training of participants in these procedures.

Article 5

1. The purpose of the procedures provided for in this Convention shall be consultations on:

(a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;

(b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;

(c) the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;

(d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organisation;

(e) proposals for the denunciation of ratified Conventions.

2. In order to ensure adequate consideration of the matters referred to in paragraph 1 of this Article, consultation shall be undertaken at appropriate intervals fixed by agreement, but at least once a year.

Article 6

When this is considered appropriate after consultation with the representative organisations, where such organisations exist, the competent authority shall issue an annual report on the working of the procedures provided for in this Convention.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 152

Recommendation concerning Tripartite Consultations to Promote the Implementation of International Labour Standards and National Action relating to the Activities of the International Labour Organisation

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-first Session on 2 June 1976, and

Recalling the terms of existing international labour Conventions and Recommendations, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Consultation (Industrial and National Levels) Recommendation, 1960, which affirm the right of employers and workers to establish free and independent organisations and call for measures to promote effective consultation at the national level between public authorities and employers' and workers' organisations, as well as the provisions of numerous international labour Conventions and Recommendations which provide for the consultation of employers' and workers' organisations on measures to give effect thereto, and

Having considered the fourth item on the agenda of the session which is entitled "Establishment of tripartite machinery to promote the implementation of international labour standards", and having decided upon the adoption of certain proposals concerning tripartite consultations to promote the implementation of international labour standards and national action relating to the activities of the International Labour Organisation, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-first day of June of the year one thousand nine hundred and seventy-six the following Recommendation, which may be cited as the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976:

1. In this Recommendation the term "representative organisations" means the most representative organisations of employers and workers enjoying the right of freedom of association.

2. (1) Each Member of the International Labour Organisation should operate procedures which ensure effective consultations with respect to matters concerning the activities of the International Labour Organisation, in accordance with Paragraphs 5 to 7 of this Recommendation, between representatives of the government, of employers and of workers.

(2) The nature and form of the procedures provided for in subparagraph (1) of this Paragraph should be determined in each country in accordance with national practice, after consultation with the representative organisations where such procedures have not yet been established.

(3) For instance, consultations may be undertaken:

(a) through a committee specifically constituted for questions concerning the activities of the International Labour Organisation;

(b) through a body with general competence in the economic, social or labour field;

(c) through a number of bodies with special responsibility for particular subject areas; or

(d) through written communications, where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient.

3. (1) The representatives of employers and workers for the purposes of the procedures provided for in this Recommendation should be freely chosen by their representative organisations.

(2) Employers and workers should be represented on an equal footing on any bodies through which consultations are undertaken.

(3) Measures should be taken, in co-operation with the employers' and workers' organisations concerned, to make available appropriate training to enable participants in the procedures to perform their functions effectively.

4. The competent authority should assume responsibility for the administrative support and financing of the procedures provided for in this Recommendation, including the financing of training programmes where necessary.

5. The purpose of the procedures provided for in this Recommendation should be consultations:

(a) on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;

(b) on the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;

(c) subject to national practice, on the preparation and implementation of legislative or other measures to give effect to international labour Conventions and Recommendations, in particular to ratified Conventions (including measures for the implementation of provisions concerning the consultation or collaboration of employers' and workers' representatives);

(d) on the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;

(e) on questions arising out of reports to be made to the International Labour Office under articles 19 and 22 of the Constitution of the International Labour Organisation;

(f) on proposals for the denunciation of ratified Conventions.

6. The competent authority, after consultation with the representative organisations, should determine the extent to which these procedures should be used for the purpose of consultations on other matters of mutual concern, such as:

(a) the preparation, implementation and evaluation of technical co-operation activities in which the International Labour Organisation participates;

(b) the action to be taken in respect of resolutions and other conclusions adopted by the International Labour Conference, regional conferences, industrial committees and other meetings convened by the International Labour Organisation;

(c) the promotion of a better knowledge of the activities of the International Labour Organisation as an element for use in economic and social policies and programmes.

7. In order to ensure adequate consideration of the matters referred to in the preceding Paragraphs, consultations should be undertaken at appropriate intervals fixed by agreement, but at least once a year.

8. Measures appropriate to national conditions and practice should be taken to ensure co-ordination between the procedures provided for in this Recommendation and the activities of national bodies dealing with analogous questions.

9. When this is considered appropriate after consultation with the representative organisations, the competent authority should issue an annual report on the working of the procedures provided for in this Recommendation.

APPENDIX B

Recommendation No. 113

RECOMMENDATION CONCERNING CONSULTATION AND CO-OPERATION BETWEEN PUBLIC AUTHORITIES AND EMPLOYERS' AND WORKERS' ORGANISATIONS AT THE INDUSTRIAL AND NATIONAL LEVELS

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-fourth Session on 1 June 1960, and

Having decided upon the adoption of certain proposals with regard to consultation and co-operation between public authorities and employers' and workers' organisations at the industrial and national levels, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twentieth day of June of the year one thousand nine hundred and sixty the following Recommendation, which may be cited as the Consultation (Industrial and National Levels) Recommendation, 1960:

1. (1) Measures appropriate to national conditions should be taken to promote effective consultation and co-operation at the industrial and national

levels between public authorities and employers' and workers' organisations, as well as between these organisations, for the purposes indicated in Paragraphs 4 and 5 below, and on such other matters of mutual concern as the parties may determine.

(2) Such measures should be applied without discrimination of any kind against these organisations or amongst them on grounds such as the race, sex, religion, political opinion or national extraction of their members.

2. Such consultation and co-operation should not derogate from freedom of association or from the rights of employers' and workers' organisations, including their right of collective bargaining.

3. In accordance with national custom or practice, such consultation and co-operation should be provided for or facilitated:

(a) by voluntary action on the part of the employers' and workers' organisations; or

(b) by promotional action on the part of the public authorities; or

(c) by laws or regulations; or

(d) by a combination of any of these methods.

4. Such consultation and co-operation should have the general objective of promoting mutual understanding and good relations between public authorities and employers' and workers' organisations, as well as between these organisations, with a view to developing the economy as a whole or individual branches thereof, improving conditions of work and raising standards of living.

5. Such consultation and co-operation should aim, in particular:

(a) at joint consideration by employers' and workers' organisations of matters of mutual concern with a view to arriving, to the fullest possible extent, at agreed solutions; and

(b) at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organisations in an appropriate manner, in respect of such matters as:

(i) the preparation and implementation of laws and regulations affecting their interests;

(ii) the establishment and functioning of national bodies, such as those responsible for organisation of employment, vocational training and retraining, labour protection, industrial health and safety, productivity, social security and welfare; and

(iii) the elaboration and implementation of plans of economic and social development.

APPENDIX C

RESOLUTION CONCERNING TRIPARTITE CONSULTATION AT THE NATIONAL LEVEL ON ECONOMIC AND SOCIAL POLICY[1]

The General Conference of the International Labour Organization, at its 83rd Session (1996),

Considering that tripartite cooperation plays an essential role in the structure and activities of the International Labour Organization, as well as in the development and implementation of economic and social policy,

Considering that tripartite cooperation has recently experienced a number of developments in many countries,

Having examined these developments on the basis of Report VI entitled "Tripartite consultation at the national level on economic and social policy",

Bearing in mind the spirit and content of the Declaration and the Programme of Action adopted by the World Summit for Social Development organized by the United Nations in Copenhagen, from 6 to 12 March 1995;

Adopts the following conclusions and invites the Governing Body of the International Labour Office to request the Director-General:

[1] Adopted on 19 June 1996.

— to bring these conclusions to the attention of the member States and the employers' and workers' organizations;

— to take account of these conclusions when preparing future activities of the International Labour Organization.

CONCLUSIONS CONCERNING TRIPARTITE CONSULTATION AT THE NATIONAL LEVEL ON ECONOMIC AND SOCIAL POLICY

1. In the present conclusions, the term "tripartite cooperation" is taken in a broad sense and refers to all dealings between the government and the employers' and workers' organizations concerning the formulation and implementation of economic and social policy.

2. Tripartite cooperation is not an end in itself. It is basically a means of cooperation among the parties with a view to:

(a) seeking to promote the pursuit of economic development and social justice in concert; and

(b) reconciling, where necessary, the requirements of economic development and those of social justice.

3. Meaningful and effective tripartite cooperation cannot exist without a market economy and democracy. It can help to sustain the effective functioning of both. Tripartite cooperation can help to sustain the effective functioning of the market economy by dealing with its social consequences. Tripartite cooperation can also help to strengthen democracy by allowing the social partners, who represent important segments of the population, to participate in various ways in the policy formulation and the decision-making processes regarding economic and social policy.

4. While in some cases tripartite cooperation has not been as effective as some or all parties would have liked, many different forms of tripartite cooperation in different regions of the world have been generally recognized to be effective. This is true for those forms of tripartite cooperation that occur at the national level and cover a wide range of economic and social issues, for those forms that occur at sectoral, regional and local levels, as well as for those forms

that occur at the national level but deal with specific subjects such as occupational safety and health. Since tripartite cooperation involves the social partners in the policy formulation and decision-making processes, it has in effect often been a positive means of achieving acceptable compromises between economic and social imperatives. For this reason as well, such compromises have the greatest likelihood of being effectively implemented, thus promoting social peace and harmony.

5. Considerable differences may arise regarding, for example, the relative importance of formal and informal tripartite cooperation, the relative importance of bipartite and tripartite industrial relations or even regarding how sharp a distinction the parties wish to draw between the area of competence of the public authorities and that of the social partners. However, tripartite cooperation is an instrument that is flexible enough to be adapted to the most diverse situations, provided that all the parties have the firm will to do so.

6. At present, the major challenge of tripartite cooperation is to contribute effectively to resolving the problems resulting in many countries from the exacerbation of economic difficulties and the globalization of the economy, as well as from the structural adjustment programmes that both have necessitated. Given the seriousness of these problems, their solution requires a strengthening of tripartite cooperation at the national or other appropriate levels. One of the roles of tripartite cooperation should essentially be to seek to reconcile the imperatives of social justice with those of enterprise competitiveness and economic development. It should be borne in mind that tripartite cooperation should be used not only in adverse but also in favourable economic circumstances.

7. Since the globalization of the economy limits the parties' capacity to resolve economic and social problems at the national level, international cooperation contributes to the solution of these problems. The main objective of this cooperation should be to minimize the detrimental effects of the globalization of the economy. Despite the many difficulties involved in establishing such cooperation, there is a pressing need to explore the ways and find the means by which it can be achieved.

8. The need for tripartite cooperation to adapt to its environment does not alter the fact that its effective functioning is subject to certain fundamental conditions. Firstly, it is indispensable that there be three distinct parties,

independent of one another and exercising different functions. This presupposes full respect for the right to organize as set out in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Secondly, it is essential that the parties be willing to examine problems together and to seek solutions that are mutually beneficial to them and to the national community as a whole. This presupposes that all parties are willing to engage in dialogue with a sense of responsibility that allows them to go further than the narrow defence of their own interests.

9. The smooth functioning of tripartite cooperation depends also on the parties being strong enough to carry out their functions effectively. In particular, this presupposes that the organizations of employers and workers are independent, sufficiently representative and accountable to their members; that they are structured so as to be able to make the necessary commitments and to ensure that they are carried out; and that they have the technical capacity to deal knowledgeably with the subjects under discussion. It is equally important that there be a reasonable equilibrium of strength among the three parties. It is recognized that the State has an important role to play in facilitating effective tripartite cooperation.

10. In a number of countries the existence of an enabling institutional and procedural framework is instrumental — and sometimes essential — to the effective functioning of tripartite cooperation and, in certain cases, to the emergence and identification of employers' and workers' organizations.

11. The International Labour Organization should use all appropriate means and take all appropriate measures including the following initiatives in order to promote tripartite cooperation:

(a) encourage the ratification and or the effective application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152); and the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113);

(b) promote the will of governments, employers' and workers' organizations to use tripartite cooperation;

(c) promote tripartite cooperation at the national or other appropriate levels. Its efforts in this domain should above all seek to ensure the fulfilment of the conditions necessary for the smooth functioning of tripartite cooperation. In this regard, special attention should be paid to gathering, evaluating and disseminating information, raising awareness, as well as offering assistance to strengthen the capacity of governments and employers' and workers' organizations to participate effectively in tripartite cooperation;

(d) undertake, in line with the wish expressed by the Copenhagen Summit calling for international cooperation, the very special role that its "mandate, tripartite structure and expertise" bestows upon it. In this regard, it is urgent to explore the ways and find the means by which the International Labour Organization can accomplish this task. The International Labour Organization should in any case strengthen its contacts and develop cooperation with the World Bank, the International Monetary Fund, the World Trade Organization and other international agencies in order to better sensitize them to the social consequences of their action. It should also increase its efforts aimed at convincing the World Bank and the International Monetary Fund of the need to consult social partners nationally on proposed programmes of structural adjustment and to encourage the use of tripartite cooperation in policy formulation and decision-making processes. It should also assist the national social partners in the course of such consultations if so requested.

APPENDIX D

RATIFICATIONS OF THE TRIPARTITE CONSULTATION (INTERNATIONAL LABOUR STANDARDS) CONVENTION, 1976 (NO. 144)

Date of entry into force: 16.05.1978

States	Ratification registered	States	Ratification registered
Albania	30.06.1999	Chile	29.07.1992
Algeria	12.07.1993	China	02.11.1990
Argentina	13.04.1987	Colombia	09.11.1999
Australia	11.06.1979	Congo	26.11.1999
Austria	02.03.1979	Costa Rica	29.07.1981
Azerbaijan	12.08.1993	Côte d'Ivoire	05.06.1987
Bahamas	16.08.1979	Cyprus	28.06.1977
Bangladesh	17.04.1979	Denmark	06.06.1978
Barbados	06.04.1983	Dominican Republic	15.06.1999
Belarus	15.09.1993	Ecuador	23.11.1979
Belgium	29.10.1982	Egypt	25.03.1982
Botswana	05.06.1997	El Salvador	15.06.1995
Brazil	27.09.1994	Estonia	22.03.1994
Bulgaria	12.06.1998	Fiji	18.05.1998
Burundi	10.10.1997	Finland	02.10.1978
Chad	07.01.1998	France	08.06.1982

States	Ratification registered	States	Ratification registered
Gabon	06.12.1988	Nigeria	03.05.1994
Germany	23.07.1979	Norway	09.08.1977
Greece	28.08.1981	Pakistan	25.10.1994
Grenada	25.10.1994	Philippines	10.06.1991
Guatemala	13.06.1989	Poland	15.03.1993
Guinea	16.10.1995	Portugal	09.01.1981
Guyana	10.01.1983	Romania	09.12.1992
Hungary	04.01.1994	San Marino	23.05.1985
Iceland	30.06.1981	Sao Tome and Principe	17.06.1992
India	27.02.1978	Sierra Leone	21.01.1985
Indonesia	17.10.1990	Slovakia	10.02.1997
Iraq	11.09.1978	Spain	13.02.1984
Ireland	22.06.1979	Sri Lanka	17.03.1994
Italy	18.10.1979	Suriname	16.11.1979
Jamaica	23.10.1996	Swaziland	05.06.1981
Kenya	06.06.1990	Sweden	16.05.1977
Korea, Republic of	15.11.1999	Syrian Arab Republic	28.05.1985
Latvia	25.07.1994	Tanzania, United Republic of	30.05.1983
Lesotho	27.01.1998	Togo	08.11.1983
Lithuania	26.09.1994	Trinidad and Tobago	07.06.1995
Madagascar	22.04.1997	Turkey	12.07.1993
Malawi	01.10.1986	Uganda	13.01.1994
Mauritius	14.06.1994	Ukraine	16.05.1994
Mexico	28.06.1978	United Kingdom	15.02.1977
Moldova, Republic of	12.08.1996	United States	15.06.1988
Mongolia	10.08.1998	Uruguay	22.05.1987
Mozambique	23.12.1996	Venezuela	17.06.1983
Namibia	03.01.1995	Zambia	04.12.1978
Nepal	21.03.1995	Zimbabwe	14.12.1989
Netherlands	27.07.1978		
New Zealand	05.06.1987		
Nicaragua	01.10.1981	Total of ratifications: 93	

APPENDIX E

TABLE OF REPORTS DUE ON THE TRIPARTITE CONSULTATION (INTERNATIONAL LABOUR STANDARDS) CONVENTION, 1976 (NO. 144) AND ON THE TRIPARTITE CONSULTATION (ACTIVITIES OF THE INTERNATIONAL LABOUR ORGANISATION) RECOMMENDATION, 1976 (NO. 152) (article 19 of the Constitution)

Article 19 of the Constitution of the International Labour Organization provides that Members shall "report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body" on the position of their law and practice in regard to the matters dealt with in unratified Conventions and Recommendations. The obligations of Members as regards Conventions are laid down in paragraph 5(e) of the abovementioned article. Paragraph 6(d) deals with Recommendations, and paragraph 7(a) and (b) deals with the particular obligations of federal States. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 19, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 218th (November 1981) Session, the Governing Body decided to discontinue the publication of summaries of reports on unratified Conventions and on Recommendations and to publish only a list of reports received, on the understanding that the Director-General would make available for consultation

at the Conference the originals of all reports received and that copies of reports would be available to members of delegations on request.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification.

From now on, reports received under article 19 of the Constitution appear in simplified form in a table annexed to Report III (Part 1B) of the Committee of Experts on the Application of Conventions and Recommendations.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

The reports, which are listed below, refer to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and to the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).

Member States	Convention No. 144	Recommendation No. 152
Afghanistan		
Albania	ratified	
Algeria	ratified	
Angola	X	X
Antigua and Barbuda		
Argentina	ratified	X
Armenia		
Australia	ratified	X
Austria	ratified	X
Azerbaijan	ratified	
Bahamas	ratified	
Bahrain	X	X
Bangladesh	ratified	X
Barbados	ratified	X
Belarus	ratified	X
Belgium	ratified	X
Belize	X	X
Benin	X	X
Bolivia	X	X
Bosnia and Herzegovina		
Botswana	ratified	
Brazil	ratified	X
Bulgaria	ratified	X
Burkina Faso		
Burundi	ratified	
Cambodia	X	X
Cameroon		
Canada	X	X
Cape Verde	X	X
Central African Republic		

Member States	Convention No. 144	Recommendation No. 152
Chad	ratified	
Chile	ratified	X
China	ratified	X
Colombia	X/ratified	X
Comoros		
Congo	ratified	
Costa Rica	ratified	X
Côte d'Ivoire	ratified	
Croatia	X	X
Cuba	X	X
Cyprus	ratified	
Czech Republic	X	X
Democratic Republic of the Congo		
Denmark	ratified	X
Djibouti		
Dominica		
Dominican Republic	X/ratified	X
Ecuador	ratified	X
Egypt	ratified	
El Salvador	ratified	X
Equatorial Guinea		
Eritrea		
Estonia	ratified	X
Ethiopia		
Fiji	ratified	
Finland	ratified	X
France	ratified	
Gabon	ratified	X
Gambia		
Georgia		
Germany	ratified	X

Member States	Convention No. 144	Recommendation No. 152
Ghana		
Greece	ratified	X
Grenada	ratified	
Guatemala	ratified	X
Guinea	ratified	
Guinea-Bissau		
Guyana	ratified	X
Haiti		
Honduras	X	X
Hungary	ratified	X
Iceland	ratified	
India	ratified	X
Indonesia	ratified	X
Islamic Republic of Iran		
Iraq	ratified	
Ireland	ratified	
Israel	X	X
Italy	ratified	X
Jamaica	ratified	
Japan	X	X
Jordan	X	X
Kazakhstan	X	X
Kenya	ratified	X
Republic of Korea	X/ratified	X
Kuwait	X	X
Kyrgyzstan		
Lao People's Democratic Republic		
Latvia	ratified	
Lebanon	X	X
Lesotho	ratified	X
Liberia		

Member States	Convention No. 144	Recommendation No. 152
Libyan Arab Jamahiriya		
Lithuania	ratified	X
Luxembourg	X	X
Madagascar	ratified	X
Malawi	ratified	
Malaysia	X	X
Mali		
Malta		
Mauritania		
Mauritius	ratified	X
Mexico	ratified	X
Republic of Moldova	ratified	
Mongolia	ratified	
Morocco	X	X
Mozambique	ratified	X
Myanmar	X	X
Namibia	ratified	
Nepal	ratified	
Netherlands	ratified	
New Zealand	ratified	X
Nicaragua	ratified	
Niger		
Nigeria	ratified	
Norway	ratified	X
Oman	X	X
Pakistan	ratified	X
Panama	X	X
Papua New Guinea	X	X
Paraguay		
Peru	X	X
Philippines	ratified	X

Member States	Convention No. 144	Recommendation No. 152
Poland	ratified	X
Portugal	ratified	X
Qatar	X	X
Romania	ratified	X
Russian Federation		
Rwanda		
Saint Kitts and Nevis		
Saint Lucia		
Saint Vincent and the Grenadines		
San Marino	ratified	X
Sao Tome and Principe	ratified	
Saudi Arabia	X	X
Senegal		
Seychelles	X	X
Sierra Leone	ratified	
Singapore	X	X
Slovakia	ratified	
Slovenia	X	X
Solomon Islands		
Somalia		
South Africa	X	
Spain	ratified	X
Sri Lanka	ratified	X
Sudan		
Suriname	ratified	X
Swaziland	ratified	
Sweden	ratified	X
Switzerland	X	X
Syrian Arab Republic	ratified	X
Tajikistan		
United Republic of Tanzania	ratified	

Member States	Convention No. 144	Recommendation No. 152
Thailand	X	X
The former Yugoslav Republic of		
Togo	ratified	X
Trinidad and Tobago	ratified	X
Tunisia	X	X
Turkey	ratified	X
Turkmenistan		
Uganda	ratified	
Ukraine	ratified	X
United Arab Emirates	X	X
United Kingdom	ratified	X
United States	ratified	X
Uruguay	ratified	X
Uzbekistan		
Venezuela	ratified	X
Viet Nam	X	X
Yemen	X	
Zambia	ratified	X
Zimbabwe	ratified	X

X = report received.

Note: In addition, a total of 18 reports have been received in respect of the following non-metropolitan territories: United Kingdom (Anguilla, Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Isle of Man, Jersey, St. Helena).

APPENDIX F

LEGISLATION REFERRED TO IN THE SURVEY

The following references are limited to the texts of legislation referred to in the Survey containing provisions which relate to the matters covered by the Convention or the Recommendation. Based on the information provided in the reports which have been received, they are cited without prejudice to the existence of such provisions in other countries, nor do they necessarily cover all the relevant national legislation. Furthermore, reference to these texts does not in any way imply that the application of the instruments requires the adoption of similar legislation since, as the Committee notes in its Survey, the instruments can also be implemented through agreements or customary law or practice (paragraphs 48 to 51 of the Survey).

Angola

— Decree No. 50/91 of 16 August 1991 establishing the National ILO Committee.

Argentina

— Order of the Minister of Labour and Social Security No. 990 of 22 September 1990 establishing the Tripartite Consultation Committee to Promote the Application of International Labour Standards.

Costa Rica

— Decree No. 27272-MTSS of 20 August 1998 issuing the rules of procedure of the Supreme Labour Council.

Côte d'Ivoire

— Order of the Ministry of Employment and the Public Service No. 834/EFP/CAB.1 of 26 January 1995 establishing a Tripartite Committee on ILO Matters.

Czech Republic

— Statute of the Commission for Cooperation with the ILO, adopted jointly by the Minister of Labour and Social Affairs and the Minister of Foreign Affairs, 1993.

Egypt

— Ministerial Order No. 111 of 1982 establishing a Permanent Tripartite Consultation Committee on ILO Activities.

Finland

— Decree No. 851/77 of 24 November 1977 respecting the Finnish Advisory ILO Committee.

France

— Order of the Minister of Social Affairs and National Solidarity of 18 November 1983 establishing the ILO Advisory Committee.

Greece

— Presidential Decree No. 296 of 4 July 1991 on the Procedure for the Promotion of the Application of International Labour Standards.

Guatemala

— Order No. 93-95 of the Ministry of Labour and Social Protection establishing the Tripartite Committee on International Labour Issues.

Iraq

— Order of the Minister of Labour No. 759 of 17 August 1983 establishing a National Tripartite Consultative Committee on International Labour Conventions and Recommendations.

Kuwait

— Order of the Minister of Social Affairs and Labour No. 114 of 1996 establishing a Committee for the Study of Labour Standards and Conventions.

Lesotho

— Labour Code Order No. 24 of 1992.

Malawi

— Decision of 9 August 1985 establishing the Tripartite Committee on Ratification of ILO Conventions.

Namibia

— Labour Act of 13 March 1992 (ILO: *Labour law documents*, 1992/2).

Poland

— Ordinance of the Prime Minister, No. 1 of 5 January 1990, establishing the Polish Tripartite Committee for Cooperation with the ILO.

Romania

— The 1997 Law on the Organization and Functioning of the Economic and Social Council.

San Marino

— Decision No. 20 of 21 July 1983 of the Congress of State concerning participation in ILO activities.

Swaziland

— Employment Act No. 5 of 26 September 1980.

Sweden

— Ordinance of 8 December 1977 containing Standing Instructions for the ILO Committee.

Syrian Arab Republic

— Order of the Minister of Social Affairs and Labour No. 1214 of 30 October 1995.

Trinidad and Tobago

— Cabinet Decision of 16 May 1996 establishing the "144" Tripartite Consultation Committee.

Ukraine

— Presidential Decree of 27 April 1993 issuing the Regulation of the National Council for Social Partnership.

United States

— Executive Order No. 12216 of 18 June 1980 establishing the President's Committee on the ILO.

Uruguay

— Order of the Ministry of Labour and Social Security of 11 March 1985.

Price: 15 Swiss francs

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